DEPARTMENT OF STATE
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MAR 1 1890

No. 88. Legation of the United States
Tokio, Japan, Feby. 5, 1890.

Rec'd March 1890.
by draft 7 p. 3 m.

Mr. Swift
To the Secretary of State.

61
Japan
John F. Swift
Feb'y 1. 1890
Jan 30. 1890

LONDON CHINA
MAR 3 1890

No. United States

Feby. 5, 1890.

March 1879.
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Mr

Subject:

Internal Tax Imposed on American Goods Sold in Japan

No. 88. Legation of the United States.
Tokio, Japan, Feby. 5, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington D. C.

Sir:

I have the honor to transmit herewith copies of correspondence lately had between this Legation and H. I. J. M's. Foreign Office under the following circumstances:

The "China and Japan Trading Company" is one of the principal, and amongst the oldest established and most respectable associations of merchants, citizens of the United States, doing business in Japan. Their trade is varied and —

extensive

extensive covering importations of most of the leading articles of American production used in this country.

Some time during the year 1887 they made arrangements to bring from the United States, and place upon this market an article which they describe as a "food medicine". It is a preparation of cod-liver oil and is known by the trade name of "Scott's Emulsion."

Among the first things they did, was to inquire of my predecessor, Mr. Hubbard, if it was necessary for them, as a firm of American merchants, to take out a license for the sale

sale of this commodity. To this I understand Mr. Hubbard replied verbally in the negative; that the commodity being an article manufactured in the United States having once — paid the customs import on entering the country, it could not be subjected to further taxation as a condition to its sale, or use.

Having obtained this decision from the Minister of the United States, they commenced the — introduction of the goods to the public, by an extensive system of advertising in the metropolitan news-papers, laying out several thousand dollars in that way.

In the early part of the year just

just closed (1889) they began to make arrangements with Japanese retail merchants, for the sale of their goods, and — commenced selling. There sprang up within a short time, a considerable demand for the article, and the sales became very satisfactory. But before this had gone on very long, they learned that the native merchants with whom they had arranged for the sale of the goods, had been sent for by the Japanese authorities, and warned that they must each of them take out a special license, for the sale of the article known as Scott's Emulsion. On learning this the American importers, to avoid delay and

trouble

trouble, instructed the merchants to comply with this requirement and take out the license. But at the same time they applied to me for advice, and to obtain, by diplomatic action, a revision of the order requiring a license.

Although I had but recently arrived in the country, and was exceedingly unfamiliar not only with the construction heretofore placed upon the Treaties, but even with the terms of those instruments, yet upon the hasty examination, I was able to make, I felt it my duty to call the attention of the Japanese Government to the case, and — accordingly addressed to Count Okuma, then H. I. J. M's. Minister for

for Foreign Affairs, a note — calling his attention to the — matter and requesting him to consider if the illegal order concerning the license ought not to be withdrawn. It was dated September 18, 1889, and a copy is herewith enclosed. A short time after sending this first note Mr. Brower, the agent of the China and Japan Trading Company, came to the Legation and informed me that a fresh attack had been made by the authorities upon the sale of — "Scotts Emulsion", more serious than the first, and urging me to move the Government to withdraw these orders, and to

concede

concede to the firm the rights due to them, under the Treaties, as citizens of the United States engaged in commerce in Japan. His first complaint was to the effect that the Japanese merchants engaged in selling 'Scott's Emulsion' had been required to pay an excise tax of ten (10) per cent. ad valorem upon the retail price in the shape of a revenue stamp to be affixed to each bottle, and that an evasion of this order would be followed by punishment as a misdemeanor or public — offense. That the retail merchants, upon being warned of this exaction, and the consequences of refusal had filed declarations with the

authorities

authorities to the effect that they would no longer deal in the goods, and having returned the stock on hand to the importers they had retired from the business and that the trade was practically brought to an end.

I then sent the record letter to the Foreign Office, dated October 4, 1889 (copy inclosed). 2. This was answered on the 23d of October by the note of that date also herewith inclosed. 3.

After a very considerable delay no doubt due to causes entirely sufficient in themselves to relieve H. J. M's. Government of any suspicion of intentional discourtesy, but greatly to the embarassment, if not

not to the actual injury of the American merchants engaged in the trade, a final answer was received on the 17th. of January, 1890, deciding the question against the "China and Japan Trading Company" and holding that not only the license duty, but ten (10) per cent. excise are within the right of the Japanese Government under the Treaties, to which communication your attention is respectfully called.

If I am not entirely at fault in my reasoning, the decision justifying these impositions, if carried to its logical consequences, practically destroys the Treaty so far as the tariff of customs

customs duties is concerned. And while the United States has long since manifested its willingness to abandon all treaty tariffs with Japan and to leave her free to regulate her own commerce, it would be absolutely destructive to our commerce with, and ruinous to our merchants in Japan, should the regulation be changed, as can be done under this ruling, so as to discriminate against them whilst leaving other nationals as they now are.

As to the position distinctly taken in Viscount Aoki's letter of January 17th, 1890, that neither the license nor the excise

excise tax are in contravention of the Treaty, it cannot be sustained for a moment, either upon the language of the instruments nor from the construction placed upon them by the uniform practice of over thirty years.

Both the likin and the excise violate the Treaty; and the principle upon which they are sustained annihilates it.

The language of the Treaty of 1858 would indicate that Mr. Townsend Harris, at the time he made the Treaty, was already familiar with the burdens placed upon internal commerce in China by the "Likin" taxes and transport passes, and that he

he took special pains in his Treaty to avoid similar imputs in Japan. The language of the Treaty of 1858, taken with the long settled practice under it, in my opinion — testify to his skill and success in that as well as in other matters. By Articles III and IV, — which are to be read together, it is provided specifically what goods may be imported by — Americans and what may not, and the amounts of customs duties are fixed in distinct — terms. Article III provides "that all classes of Japanese may "purchase, sell, keep or use any "articles sold to them by the — Americans

"Americans." This clause alone is conclusive of the whole question. Having named a particular condition upon which American goods may enter the country and be paid no other can be imposed without — violating the terms of the Treaty, according to all recognized rules of construction.

A clause in Article IX — provides that "all goods imported "into Japan and which have paid "the duties fixed by the Treaty may "be transported by the Japanese "into any part of the Empire — "without the payment of any tax, "excise, or transit duty whatever."

This was no doubt intended to prevent the levying of tolls upon

upon transportation to the
interior, as is done in China.
I repeat the provision in Article
III, allowing Japanese to keep,
use or sell goods bought of
Americans to be the controlling
language, and both taken together
certainly, it seems to me, secure
our right to be exempt from
internal taxation.

The Treaty of Mr. Harris
is the model upon which all
subsequent compacts have been
formed. Had subsequent Treaties
been more favorable, of course we
would get the additional
advantage under the favored
nation clause, but as I read
them they are substantially the

same

same though in some instances, perhaps, a trifle clearer in expression.

The last Treaty made by Japan was with Austria-Hungary in 1869, and as all foreign states have the benefit of it under the favored nation clause in their own treaties, this is generally referred to as showing the relations existing between Japan and the foreign Powers. I do not however, as I said before, think that it gives the United States any additional rights as to the matter under consideration over the provision on the same subject contained in our own Treaty of 1858. Indeed, that

that compact has been followed by all the Powers that have since treated with Japan as close, perhaps, as differences in language would permit. For your convenience I will however insert the provisions of the Austria-Hungary Treaty of 1869 bearing on the rights of merchants of that country. They are as follows:

Article VIII. "At each of the "ports open ... to trade, Austro-"Hungarian citizens shall be at "full liberty to import ... and "all these ... all manner of "merchandise not contraband, — "paying the duties thereon as "laid down in the tariff annexed

to

"to this treaty and no other ——
"charges whatsoever."

Article XII. "All goods im-
"ported by citizens of the Austro —
"Hungarian Monarchy into any
"of the open ports of Japan on
"which the duties stipulated by
"the present Treaty have been paid
"may, whether they are in the
"possession of Austro-Hungarian
"citizens or of Japanese subjects,
"be transported by the owners
"into any part of the Japanese
"Empire without the payment of
"any tax or transit duty whatever."

Article XIII. "All Japanese
"shall be at liberty to buy any
"articles from Austro-Hungarian
"citizens * * * * and they may
resp

"Keep and use the articles which
"they have thus bought, or resell
"the same."

If our own Treaty does not
secure to American merchants
the right to have the goods re-
sold by Japanese merchants
without additional tax, license or
excise, this certainly does.

It will be readily seen that
if a Japanese can be compelled
to obtain from the Revenue
Department of his own Gov-
ernment a license before he
can sell an article after he has
purchased it from an American
merchant in the regular course
of trade in Japan, the same
condition can be placed upon

his

his purchasing it from the American in the first instance and also upon his keeping or using it after he has purchased it. In like manner, if American goods can be taxed ten per cent. ad valorem as an excise upon their being re-sold by a Japanese, the same excise can be levied upon the articles in the hands of the American and upon their sale by him; also the same can be levied upon their use by the purchaser, so that he cannot keep nor use them without paying a tax. It is obvious that if this can be done, the American merchants can be bottled up in the few acres of land set aside

at the four treaty ports for the residence of foreigners and where they are rigidly required to live and carry on business while — additional Custom Houses, under the name of Licence, Internal Revenue or Excise Offices, can be established just outside the boundaries of these narrow concessions, and our countrymen taxed out of the country and their trade out of existence. If this construction be sound, — revision of the Treaties as to the tariff is certainly unnecessary and the negotiation for that purpose so long carried on has been a mere waste of time. H. J. M's. Government is at all

times

times free to tax commerce at will.

I do not hardly say that the fact that this is a completely new departure in Japanese diplomacy and that the blow is levelled seemingly at American commerce alone are, to say the least, circumstances tending to greatly exasperate such of our merchants as are made the initial sufferers and must to some extent share the confidence of others in the permanent good will of the Japanese towards them, carrying with it a feeling of insecurity in person and property by no means beneficial to our interests.

In proof of the statement that the new departure in Treaty

construction

construction is levelled, at least at present, so far as I am able to judge; at American interests alone. I have to say that I have taken the pains to inquire — carefully of the representatives of the principal commercial states resident at this capital, and in every direction, to find if there exists any precedent for such a ruling and can hear of none. The British Legation, beginning with the Minister and including the Secretaries of longest residence and widest experience in Japan, assure me that they have never had their attention called to a solitary instance of an article of British production

productions being subjected to any tax, impost or duty of any nature after it had passed the Custom House. The German Minister made special enquiry at my request, writing his Consuls for that purpose, and tells me the same thing with respect to goods coming from his country. From every quarter I get the same answer. All say it is a new departure. And I am reluctantly forced to entertain some doubt at least as to whether or not we may have been selected as the Power least likely to resent being subjected to a new and unexpected interpretation of Treaty rights to the injury of our merchants

merchants established this country.

The relations of the United States with Japan, from the beginning, have been peculiar, often inclining to the sentimental rather than to the practical side of things. In this the conduct of our country has been in marked contrast with all other nations. Our diplomatic representatives have in some instances been so friendly to Japan and the Japanese people as to subject themselves to the sneering insinuations from their colleagues that they were the self-appointed dry nurses of the Japanese nation. This almost paternal interest taken in the people has

always

always been creditable at least to our goodness of heart and perhaps has, in the main, been beneficial to both American and Japanese — interests. Our considerate care has certainly been bestowed upon a worthy and deserving people at an interesting and critical period of their development.

As an abstract question, it seems to me that it is due from the United States to Japan that she should be allowed to fix her own tariff and trade regulations and to impose excise and license upon all within her territories. But for this to be done as to — American commerce alone, leaving other foreigners untouched, is — simply

simply to ruin our merchants and drive them out of the country. The fact cannot be lost sight of that we have two hundred or more of our citizens who, upon the faith of Treaties, have established themselves in commerce in this country under very considerable difficulties. That many of them came hither as young men and have grown old in building up a trade upon the successful — continuance of which their future prosperity and happiness are dependent. That while conducting this business which, considered financially and pecuniarily, has been more beneficial to the Japanese than to the Americans, their

their individual influence, the civilizing effect of their manners and customs, have been of incalculable benefit to the people among whom they have been settled. As a mere question of material gain it is a recognized and indisputable fact that the foreign merchants settled at the Treaty Ports in Japan, either taken individually or as a class, have not begun to accumulate any such fortunes as have been achieved by the Japanese who have been trading with them. The native merchants of Yokohama today represent capital probably ten times greater than the foreign,

and

and all gained in the last thirty years out of the foreign trade.

Our merchants have the first claim upon us and no sentimentality should be allowed to intervene to their injury.

Having come to these opinions and upon the receipt of the last mentioned communication from President Adams, I determined before laying the correspondence before you to have an interview with him and learn from his own mouth, amongst other things, whether he had carefully considered the extent and scope of the decision he had made and whether it was final.

Accordingly

Accordingly on the 23d instant by a previous arrangement I had an interview with him of near two hours in duration. On separating, by agreement I prepared a precis of the important points discussed and what was said on both sides, to the best of my recollection, which is herewith enclosed. This memorandum on the 24th instant I forwarded to him with a note, a copy of which I also enclose, which completes the correspondence to date.

In considering this matter the fact is not to be overlooked that there has been in force for several years past, in Japan, an Imperial

Imperial regulation requiring a license to be taken out and an excise or stamp duty to be paid by Japanese merchants engaged in selling "licensed medicines". The decree requiring this license, which was promulgated the 20th. of January, 1877, defines the words "licensed medicines" as including every form of medicinal preparation sold with accompanying directions for use, whether it be in pills, plasters, paste, powder, decoction or for use in bottling. It is under this decree or regulation that the license and excise tax are imposed upon "bottled Emulsion"

Emulsion". That it falls within the description, namely, is a medicinal preparation with accompanying directions for use, is, I believe, true. The only reason for its exemption is the fact that it comes in its present form from the United States, has paid the customs duty, and is covered by the Treaty. If, instead of having been imported from America, it had been manufactured in Japan, either by a Japanese or by an American citizen, it would not be covered by the Treaty, but would be subject to pay the Internal Revenue tax. It has always been held by the Diplomatic

Body

Body here in Japan to be the same construction of the Treaties that in order that imported goods shall remain exempt from — internal taxation, after passing the Japanese Custom House they must retain their original shape. If the article is worked over in any manner after reaching Japan, as tobacco turned into cigars, or flour into bread, then it is liable to internal taxation; likewise or vice versa. Cigars and cigarettes imported from abroad have always been sold by the side of and at the same stand with Japanese cigars and cigarettes. But having paid the customs duties under the Treaty they are exempt from internal

taxes

taxes, or at least no attempt has ever been made to impose such upon them. And although the regulation or Imperial decree as to license and excise upon "licensed medicines" above cited has been in force ever since January 20, 1877, it was never till now supposed to extend to imported goods; and when I addressed my first communication to Count Oriuma, September 18th, 1889, calling his attention to the matter under consideration, it was with the expectation of obtaining a prompt order to the local authorities, to discontinue the practice of requiring a license or stamps as to the article of American production known as "Scott's Emulsion." But

for

for the distressing accident which occurred to that gentleman and the substitution of the present Minister of Foreign Affairs in his place. I have every reason to believe that the matter would have been settled long ago on the principle contended for by the "China and Japan Trading Company."

As I have informed you in several recent dispatches, the present Minister of Foreign Affairs, Mr. Count Aoki, while in all other respects a statesman and gentleman of the highest character and qualifications, is believed by some, whether truly or not I do not record, with entertaining a certain hostility to the

the American Union, which — feeling is thought to extend in some degree to its citizens. To what extent such animus, if it exists, may have influenced H. B. M's Government in reaching the — determination to make an abrupt change in Treaty construction which has resulted in a considerable loss to an American firm, I shall not venture to even have an opinion. I sincerely hope that the belief of his entertaining such a spirit towards my countrymen may — prove to have been groundless. To seek for another and less objectionable motive, it is not improbable that Viscount Aoki may be conscientiously of the opinion that

that the original and long prevailing construction of the Treaty is not justifiable in consideration of its actual terms and that it is in fact susceptable of a construction more favorable to the Sovereign power and autonomy of Japan. That being of that opinion, and perhaps thinking that a tentative assertion of it in a matter of minor importance and in the case of a State that, for some reason satisfactory to him, he may have come to consider as the least likely to resent an injury to one of its citizens would be a good stroke of state-craft in fact could be made the insertion of the thin edge of the wedge

for

for a change of the Treaties by Japan without revision.

It certainly would be a most useful point gained for Japan — under present circumstances if the United States could be brought to acquiesce, if only by silence, in this new view of treaty rights. And the effort to gain it is certainly creditable to the patriotism of the present Government of H. I. J. M., even if done upon the motive I have named, which I by no means assert. But whatever may have been the moving influence to the recent decision, the result and what preceded it, that a considerable loss has been imposed upon the American citizens who have been engaged

engaged in this enterprise, is beyond question.

I may mention that since the extensive and expensive — advertisement of these goods has brought them to notice, a result now very common in Japan has occurred in the bringing forward of a home-made article which, while not a complete — counterfeit, is substantially so. While the native merchants have been tracing, filling and maneuvering, promising to sell the genuine article one day and declining to sell it from real or pretended fear of the police the next, the imitation has been steadily sold in increasing — quantities

quantities. It is contended by the "China and Japan Trading Company" that the manufacturers of this imitation have intrigued with the local authorities to baffle them in this sales and that much of the difficulty is due to such influences. I may also mention that they think they have a claim upon the Japanese Government for damages. I have paid nothing to encourage the views but regard it as probable that if the sale of the American manufactured "Scotts Emulsion" should be known soon, as now seems likely, we may expect an urgent application from the importers to press such a claim against the Japanese

Government

Government.

In conclusion it is proper for me to say that so far as I am able to judge there is no reason to apprehend that H. M's. Government will follow up this ruling by imposing internal revenue taxes or excise upon kerosene oil or any other article of American production. It is probable that things will remain as they are for an indefinite period and that for present purposes the matter may be treated upon that basis.

I respectfully submit the rolls of ~~cases~~ and have the honor to request that you will instruct me what further action, if any.

I

is to be taken.

I have the honor to be

Sir,

Your obedient servant,

John A. Swift

Enclosures:

No. 1. Mr. Swift's No. 14 to the Foreign Office, Sept. 13, 1889.

" 2. Mr. Swift's No. 20 to the Foreign Office, Oct. 4, 1889.

" 3. Minister of Foreign Affairs, No. 19, to Mr. Swift, Oct. 23, 1889.

" 4. Minister of Foreign Affairs, No. 34, to Mr. Swift, January 17, 1890.
Mr. Swift's No 40 to Foreign Office, enclosing

" 5. Pieces.

" 6. Mr. Stubbard's No. 529, from China & Japan Trading Co. April 9, 1889.
Mr. Swift's No 11, from C. & J. T. Co., June 10, 1889.
Mr. Swift's No. 19, from C. & J. T. Co. Sept. 5, 1889.

Enclosure No. with Mr. Swift's No. 88 — 1

Copy.

No. 14. Legation of the United States,

Tokio, September 13th, 1889.

His Excellency,

Count Okuma Shiganobu,

H. I. J. M's Minister for Foreign Affairs.

Sir:

I have the honor to herewith transmit a document received at this Legation from the China and Japan Trading Company, complaining of what appears upon the face to be an infraction of the terms of the Treaty between Japan and the United States under the following circumstances. The China and Japan Trading Company is a firm of merchants, citizens of the United States, engaged in business in Yokohama and othe Treaty ports. One of the articles in which they deal is a preparation made in the United States and sold as an article of merchandise by the trade name of "Scott's Emulsion".

It appears from a document signed by the Board of Health of Osaka Fu, accompanying the complaint of the China and Japan Trading Company, a copy of which I enclose to you herewith, that the Financial Department of H. I. J. M's Government have forbidden the sale, in Japan, of the said article of merchandise, "Scott's Emulsion", by any merchant or agent of sale, unless such merchant or agent, first obtain from the Government a license for such sale as a patent medicine which license, I understand, is not gratuitously given but is to be paid for in money as a means of raising revenue for Government uses.

This

This license for the sale of "Scott's Emulsion" seems to me to be in contravention of the provisions of the Treaty of July 29th, 1858, especially of Article 111, which stipulates that Japanese may sell articles sold to them by Americans, and of Article 1V, which provides that no tax, excise or transit duty, shall be imposed upon them.

If I am correct in this view, I have the most complete confidence that Your Excellency will promptly take the necessary steps to cause the illegal order to be withdrawn by the Department for Finance.

If by any mischance I have overlooked any clause of the Treaty which shows that the order of the Department for Finance is not in contravention of that instrument, I shall be only too happy to receive Your Excellency's explanation, which I will respectfully await.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

JOHN F. SWIFT.

Enclosure.

China & Japan Trading Co. to Mr Swift.

Sept 6. 1889.

Enclosure No. with Mr. Swift's No. 88 — 2

Copy.

No. 20 Legation of the United States,

Tokio, October 4th, 1889.

His Excellency,

Count Okuma Shiganobu,

H. I. J. M's Minister for Foreign Affairs.

Sir:

Referring to my communication No.14, dated September 13, 1889, in which I brought to Your Excellency's notice what seemed to me to be an infraction, by the Japanese authorities, of the treaties between the United States and the Empire of Japan, in levying an excise upon an article of American production and import, known as "Sott's Emulsion", I respectfully call Your Excellency's attention to the circumstance that the question is one of considerable importance to my countrymen engaged in commerce in Japan, and to urge that you will kindly give it as immediate attention as you other duties will permit of.

The Finance Department, it seems, requires a revenue stamp representing ten per cent of the value of the article sold to be placed upon each package. Since sending you my communication of the 13th, ultimo, informing you of the action of the Government officials of Osaka Fu, the sale of the article in question has been authoritatively prohibited in Tokio.

That you have not found time to answer my inquiry, nor even to acknowledge its receipt, although three weeks have elapsed since it was sent, I have no doubt is due to the

pressing

pressing nature of other official duties of more importance to Your Excellency's Government than this which I have had the honor to point out to you. But as the question raised by me involves an important right hitherto enjoyed by American citizens under the treaties, I respectfully ask you indulgence in pressing it upon your attention and for as early a reply as your convenience will permit of.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

JOHN F. SWIFT.

Enclosure with Mr. Swift's No. 88. — 3

Translation Copy.

No. 37, Department for Foreign Affairs, the 23rd, year, the 10th, month, the 22nd year of Meiji. (October 23rd, 1889.)

His Excellency,

John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

Sir:

I have the honor to acknowledge the receipt of Your Excellency's note of the 4th, instant, in reference to the alleged interference on the part of H. I. M's Government with the sale of a medical preparation known as "Sott's Emulsion".

In a note upon this subject dated the 13th, ultimo, you stated that H. I. M's Department for Finance had forbidden the sale in Japan of the article in question by any merchant or agent of sale, unless such merchant or agent, first obtain- a Government license authorizing such sale as a patent medic ine, which license , you were advised, was subject to a monetary charge for the purposes of revenue, you thereupon expressed the opinion that the license in question was in contravention of the provisions of the Treaty of 1858 and you invited the attention of the Imperial Government to the question.

In your note now under acknowledgment you refer to your former communication on this subject and declare that the infraction of the Treaty complained of consisted of an attempt to levy upon the Emulsion an excise tax of ten per cent ad-lorem, and you add that the sale of the Emulsion had been

[illegible] in Tokio since

authoritatively prohibited in Tokio since your first communication on the subject was written, and finally Your Excellency is pleased to call attention to the fact that your note of the 13th, ultimo, had not been answered nor even its receipt acknowledged, although three weeks had elapsed since it was sent.

In reply I beg to acquaint Your Excellency that immediately upon the receipt of your first note on the subject, the the matter was referred to the Department for Home Affairs for investigation. I am just in receipt of a reply from His Excellency the Minister of Home Affairs, but as that response only professes to deal with the question of licenses and license fees and does not touch the new issue relating to excise duty which you raise in you note of the 4th, instant, I have deemed it best to obtain from the Department of Home Affairs a report upon the second question before reporting to you the result of the first examination, and I beg to assure you that no unnecessary delay will be permitted either in the examination of the question or in acquainting you of the result of such examination.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) Viscount Suizo Aoki,

Vice-Minister for Foreign Affairs.

Enclosure with Mr. Swift's No. 88 — 4

Translation Copy.

Department for Foreign Affairs,

the 17th, day the 1st, month, the

23rd, year of Meiji (Jan'y 17th, 1890

His Excellency,

John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary

of the United States of America.

Sir:

In my note of the 23rd, of October last, I had the honor to acknowledge the receipt of Your Excellency's notes of the 13th, of September and the 4th, of October last, in which referring to the alleged interference on the part of certain authorities of the Imperial Government with the sale of a medical preparation known as "Scott's Emulsion" imported into Japan by the China and Japan Trading Company, and the attempt made by them to levy upon the Emulsion an excise duty equal to ten per cent ad valorem, you expressed your opinion that the action of such authorities would seem to be in contravention of the Treaty concluded between Japan and the United States. In that note I stated that before communicating to you a definite reply in reference to the question raised by Your Excellency, I had deemed it best to obtain from the Department for Home Affairs a report on the question of the alleged imposition of an internal tax. Being now in receipt of reports from the Department for Home Affairs and the Department for Finance, I am prepared to state herewith the

result

result of the examination into the matter in question, and to set forth the opinion of the Imperial Government.

It appears from the report received from the Department for Home Affairs that in Osaka the local authorities directed certain Japanese subjects who were selling "Sctt's Emulsion" to obtain a license permitting them to sell the Emulsion as a licensed medicine, and that in Tokio, although the local authorities have never directly prohibited the sale of the Emulsion, certain Japanese subjects engaged in the sale of that medical preparation having been summoned to Tokio fu and warned by the authorities that they must obtain licenses in accordance with the provisions of the "Regulations for the sale of Licensed medicines", they filed a declaration to the effect that they would no longer continue to sell the Emulsion.

This medical preparation being a combination of cod-liver oil with certain drugs, such as hypophosphites of lime and soda, glycerin etc, intended for direct use as a remedy for certain kinds of diseases and being accompanied by directions for use, clearly falls within the description of that class of medicines for the sale of which special licenses are required by the above mentioned Regulations. For this reason the Imperial Government should not be justified in regarding "Sctt's Emulsion" as an ordinary article of commerce, and are obliged to require all Japanese subjects who may desire to sell it to obtain from the local authorities licenses permitting them to be dealers in licensed medicines.

In

In reply to Your Excellency's opinion that the action of the Imperial Government in thus requiring Japanese subjects to obtain licenses for the sale of certain articles imported from the United States, for which license fees are to be paid in accordance with the laws and regulations of the Imperial Government, and to pay the taxes prescribed by such Regulations. It therefore seems to me quite unnecessary in reference to this question to enter into the discussion of Article 111 of the Treaty which provides that all classes of the Japanese may sell any articles sold to them by the Americans, and the question whether the action of the local authorities of the Imperial Government in reference to the sale of the Emulsion was proper or improper can only be decided by the consideration of the provisions of Article 1V.

The fifth paragraph of Article 1V provides that "imported goods which have paid the duty fixed by this Treaty, may be transported by the Japanese into any part of the Empire, without the payment of any tax, excise or transit duty, whatever." The Dutch version is also identical to the English version.

This clause, in the Judgment of the Imperial Government, can only be construed to mean that all goods imported from abroad may be transported by the Japanese into any part of the Empire, and such goods shall not be liable to pay any tax in the interior of the country on account of their transportation provided the Customs authorities had already levied import duties upon them. There is of course a marked difference between a declaration to the effect that no tax shall be paid in respect of transportation and a stipulation that no

tax

tax shall be levied in respect to the sale, use or comsumption of goods. Had it been intended to include in the inhibition this latter class of imposts the qualifying words " may be transported" would not have been inserted in the Treaty.

I am therefore impressed with the conviction that the action of the Imperial Government in requiring every Japanese subject, who may sell "Scott's Emulsion", to obtain licenses upon payment of certain fees in accordance with the "Regulations for the sale of Licensed medicines", and in imposing upon the Emulsion, when sold by such licensed dealers, certain stamp duties which are in all cases levied upon medical preparations both domestic and foreign falling within the description of "Licensed medicines", is in no wise contrary to the terms of the Treaty.

I avail myself of this occasion to renew to Your Excellency the assurances of my highest consideration.

(Signed) Viscount SUIZO AOKI,

H. I. M's, Minister for

Foreign Affairs.

Enclosure with Mr. Swift's No. 88. - 5.

Copy.

No. 40. Legation of the United States,

Tokio, January 24th, 1890.

His Excellency,

Viscount Aoki,

H.I.J.M's Minister for Foreign Affairs.

Viscount.

Immediately on returnung to this Legation on Thursday I prepared a memorandum of our conversation as I promised you I would do and herewith send it for your examination and approval. It is not complete, that is, it does not give the entire conversation, but contains the gist of what was said on both sides, to the best of my recollection, and, I therein set forth all that is of any real importance on the affair out of which it arises.

I do not send this paper to you as the basis of a discussion of any kind between us, but simply that I may have your own assurance that I have not misunderstood what took place so far as it bears upon the the position of H.I.J.M's Government in the construction it now places upon its Treaty with the United States , in order that I may inform my Government with the greatest possible accuracy.

If I hear no objection from you before the departure of the next mail, I will take the liberty of assuming that my understanding and recollection of the conversation has been substantially correct and will forward the precis to my own Government, along with the other papers in the case, the most

important

important being your No. 4, with the written decision of your Government, and await further instructions.

I avail myself of this opportunity to renew to your Excellency the assurances of my highest consideration.

JOHN F. SWIFT.

Enclosure with Mr Swift's No. 88, — 6

PRECIS

Of a conversation which took place by special appointment at the Foreign Office, Tokio, January 23, 1890, between His Excellency, Viscount Aoki, H.I.J.M's Minister of State for Foreign Affairs and Mr. Swift, the Minister of the United States.

SUBJECT

The decision of H.I.J.M's Government as to the License and Excise tax imposed upon the article of American production known as "Scott's Emulsion of cod-liver oil" and as to the construction placed upon the Treaties between the United States and Japan.

Mr. Swift began by referring to His Excellency, Viscount Aoki's communication No.4 dated January 17th, 1890, and in that connection proceeded to say that before notifying his Government of the fact that the Japanese authorities have imposed and are now exacting upon a certain article of merchandise, known as "Scott's Emulsion of cod-liver oil", imported from the United States, a special license to sell as well as an excise duty or tax of ten per centum ad valorem in addition to the customs duties agreed upon in the Treaties between the two countries; as well as of the communication he had received from H. E.Viscount Aoki, above referred to which, if he Mr. Swift, fairly understood the effect of the same, claimed the right to impose such excise, not merely upon the particular article above named, but upon all goods imported from the United States, in spite of the treaty stipulations, he desired to ask of his Excellency a more complete

explanation of the scope and meaning of H.I.J.M's Government as set forth in the said communication.

To this viscount Aoki answered that he would willingly give Mr. Swift the desired explanation.

Mr. Swift asked if the decision to place an internal revenue or excise tax upon "Scott's Emulsion" was because of any peculiar quality or character in that article taking it out of the general provisions of our Treaties, or whether H.I.J.M's Government claimed the right generally to impose and exact at will additional taxes upon American goods after their passing the Custom House, as a condition of their sale by Japanese merchants in the ordinary way of trade.

To this Viscount Aoki replied that it was unnecessary to answer that question. That it was sufficient to say that H.I.M's Government claimed the right to require merchants to take out a special license for selling "Scott's Emulsion of cod-liver oil" and to pay an excise tax of ten per cent ad-valorem upon all the sales of that article as had been done. H.E. then went on to remind Mr. Swift that H.I.M's Government had not raised this question as to the full extent of their rights and had no present intention of doing so. That it was Mr. Swift that was raising the question and, as H.E. thought, prematurely and unnecessarily. He warned Mr. Swift that if he persisted in asking for an answer that H.I.M's Government might take the ground that it had the

right

right to levy an excise or other additional taxes as will up on all goods coming from the United States.

Mr. Swift answered this by saying that he did not think that the fear that H.I.J.M's Government would so decide ought to deter him from asking from H.E. a complete explanation of the written paper he had already received, in which if he correctly construed its terms, H.I.J.M's Government had informed him officially and in writing that it did take precisely that very ground and so justified the imposition of the excise tax. He also called H.E. Viscount Aoki's attention to the fact that had H.I.J.M's Government desired to confine the decision to the exact facts before them and not to intimate an opinion as to what it would do as to goods, other than "Scott's Emulsion of cod-liver oil" they could have done so by restricting the decision to that article but this they had not done. On the contrary they had covered the entire field in that decision and had given as a ground for the excise on that article reasons that logically extended to goods of every nature coming from the United States.

Mr. Swift further proceeded to say that if the interpretation of the teraties which had stood undisturbed to the best of his belief from the very commencement of commercial intercours between Japan and foreign countries, namely, that goods once past the Custom-House were not to be again taxed as a condition of sale, was to be now changed as to the United States, our merchants being selected as the first to bear the brunt of a serious trade impediment, he felt it to be his duty to learn

learn the extent of the danger threatened to American commerce as soon as possible in order to forewarn his Government of what might be expected.

That although "Scott's Emulsion of cod-liver oil" seemed to make but a trifling item in the trade reports between Japan and the United States, yet its importers had the same rights under the treaties with the importers of kerosene oil or any other article. That if the Japanese Government could without violating the treaties impose an excise tax upon "Scott's preparation of cod-liver oil", so far as he , Mr. Swift could judge from present lights, they could do the same thing upon kerosene oil, upon clocks and watches or any other American commodity. That in this particular instance the announcement of this new tax was a special hardship upon the importers of "Scott's Emulsion" owing to the fact that before offering it upon the market they had expended several thousand dollars in advertising the goods in the Japanese native papers and that the excise had not been brought to their notice until after these large sums had been laid out. That both the excise and the license had operated upon the as a complete surprise and that their sale had been substantially interdicted by direct Government and police interference. That what ~~what~~ had been done as to this article might, so far as Mr. Swift could see, at any day be done as to kerosene oil or any other American production and that his Government and countrymen ought to know where they stand.

Under these circumstances Mr. Swift thought His Excellency would allow him (Mr. Swift) to be the judge of the wisdom and propriety of his asking as he respectfully did whether

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the communication of the 17th, instant, had been duly considered in all its reach, scope and bearings and if in fact, H. I. J. M's Government claimed the right to impose and exact excise and license taxes upon any and all American merchandise as a condition to their sale , in the ordinary way of trade.

To be more explicit, said Mr. Swift, do you claim the right to impose an excise duty, for example, upon kerosene oil?

His Excellency, Viscount Aoki, answered that he did so claim but that there was no present intention to exercise the right.

Mr. Swift then said he was very sorry to be obliged to report to his Government what seemed to him, so far as he could judge, a direct violation not only of the plain terms of the Treay, but of an interpretation that had been uniform from the commencement of trade relations between Japan and the United States and with all other foreign countries. He also said that he could not refrain from expressing his regret that H.I.J.M's Government had thought it expedient to inaugurate this new ruling by a discrininating act directed at the commerce of the United States, while the merchants of other countries were left untouched. He reminded H. E. Viscount Aoki, that the United States had in the past manifested its well known kindly feel ing towards Japan in many ways, but notably, in the position it had taken more than ten years ago

ago by agreeing in a treaty to yield and surrender all right to interfere in Japanese tariff and trade regulations, only stipulating, for what was essential if any American commerce was to remain, namely, that the treaty should not take effect until other Powers had agreed. That under these circumstances the people of the United States, especially those engaged in commerce, would certainly be surprised at their being, as they might think, picked out from all the others as the first to have their trade put under disadvantageous restriction. That they must, he feared feel more or less displeased and aggrieved, at feeling themselves picked out and selected from amongst all the foreign merchants domiciled in Japan as the subjects of this experiment, under an unexpected and startling departure in treaty construction suddenly put in force by the Japanese Government. Mr. Swift remarked that it was likely that they would feel to some extent aggrieved even if the new departure in construction was one seemingly not so wide as is this from the original intent and meaning of the Treaty when made thirty or more years ago. But on the contrary if it should strike them, as he certainly thought it would, that the new construction is erroneous and the old and original interpretation which has stood unchallenged for so long a period was a sound one, then their dissatisfaction with being made the first victims of a change, would, he feared, be increased by that circumstance. In short he was afraid that there might be some who would feel and perhaps say that those nations that had been less friendly

with

with Japan than have been the United States, less conciliatory in their bearing and less yielding to her, perhaps, just demands, have received greater respect and higher consideration at their hands.

To this Viscount Aoki said he could not take into account what the American people might feel or think, that the rights and interests of Japan alone were the subject of his concern. He, however, proceeded to say that the goods of citizens of the United States had not been specially selected for the imposition of this tax. That goods from other countries had been taxed in the same way.

Mr. Swift said that he had made careful inquiry from his colleagues the representatives of other Powers, and that they had all assured him that the ruling made in the communication of the 17th, instant, was absolutely new and that in no instance had they heard of any such tax being imposed upon goods coming from their countries.

At the end of the conversation His Excellency, Viscount Aoki, remarked that if Mr. Swift was of the opinion that the excise and license were violations of the Treaty, he was willing to discuss the question with him as the decision of H.I. M's Government was not regarded as a violation or breaking of the treaties with the United States but, merely, its construct ion of their meaning.

This

This Mr. Swift declined to do at this time, stating that his object in obtaining the interview was not to discuss the question but solely to ascertain as nearly as possible the exact position the Japanese Government had taken upon the right to impose license and excise taxes upon American goods and to learn if it had been taken with due consideration and thought, and finally, to express his regret at the new policy having been inaugurated with respect to the goods of American citizens as tending to weaken the well known feeling of kindness that had so long existed on the part of our citizens towards Japan.

Legation of the United States,

Tokio Japan, January 23, 1890.

Enclosure 6

Enclosure with Mr. Swift's NO. 88.

Copy.

Yokohama, April 9th, 1889.

Sir:

Your Excellency will, no doubt, remember that about one year ago, we made personal inquiry through our Mr. Brower, as to whether it was necessary for us to obtain from the Japanese Government a license for the sale of a medicine known as "SCOTT'S EMULSION" of cod-liver oil, with the hypophosphites of lime and soda.

It appears that a Japanese subject who manufactures for sale, any medicinal article, is obliged to obtain a license, and stamp each bottle orcpackage according to its retail price, per bottle or package.

Your Excellency was of the opinion, at that time, that as "Scott's Emulsion" is a foreign article, being manufactured by Messrs. Scott & Bowne, of New York, U.S.A. and London England, that it was not necessary to obtain such license, or affix the stamps.

Messrs. Scott & Bowne for whom we are Agents here have been and are spending large sums of money in advertising "Scott's Emulsion", the result of which has been to create a considerable demand for this article. The retail druggists however, hesitate to offer it for sale, as it is not stamped, or protected by license from the Japanese Government, and we think that it retards our business in this article.

Will you kindly ascertain from the Japanese authorities,

if

if it is necessary for us to obtain a license, or affix any stamps, and inform us how to proceed in the matter.

We enclose a copy of the report of the Government analyst of Yokohama showing that there is nothing of a Poisonous nature contained in the preparation.

We remain Sir,

Your most obedient servants,

CHINA AND JAPAN TRADING COMPANY.

To the

Hon. Richard B. Hubbard,

U. S. Minister

Tokio.

Yokohama, June 10th, 1889.

Sir:

Referring to our communication of April 9th, we would add thereto, that we have no case as yet of any interference on the part of the Government, further than some enquiries as to the status of the medicine, being a food medicine simply or a patent medicine. The latter paying a stamp tax and a special license being required. The Japanese druggists fear that it will be classed as the latter, which would involve, perhaps, some fine, for selling this medicine without a license and for stamp.

This fear interferes with the sale of the Emulsion. And hence we are obliged to ask that the inquiry be made of the proper authorities if "Scott's Emulsion" will be accepted here as in the United States as a "food medicine" (its contents being detailed on the label)or if a special license will be required by the Japanese druggists for the sale of the same.

We remain Sir,

Your most obedient servants,

China and Japan Trading Company.

(signed) Thos. P. Mc, Grath,

Manager.

To the

Hon. John F. Swift,

United States Minister Tokio.

Yokohama September 6th, 1869.

Sir:

Referring to our letter of the 9th, April last, copy of which is enclosed herewith, re matter of the sale of Scott's Emulsion as an article of merchandise, and not as a patent medicine, being an article of foreign manufacture, and not considered or classified in any other country as a patent medicine, it having its formula or composition printed on the face of the bottles. And the disposition exhibited on the part of the Japanese Authorities to prohibit or interfere with its sale, by their own subjects, contrary to Treaty regulations for the sale of foreign articles &c., &c., imported in accordance with Treaty Regulations and paying the regular duty of 5%.

We beg to state that we have just received from the Osaka Authorities (Japanese) a communication in response to an enquiry made of them prompted by imformation we had received from our customers for this article, that the sale had been prohibited, on the grounds that it is considered by the said Authorities as a patent medicine, and the law or regulations for the sale of patent medicines manufactured in Japan had not been complied with. We enclose the original letter and the translation.

We would add, however, that we are informed on good authority, that the patent law or regulations for the sale of same applies only to patent medicines made in Japan and not to articles imported under treaty or trade regulations

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in force and in practice, and paying the regular import duty of 5%.

We would ask for the kind offices of Your Excellency in this matter in ascertaining from the Japanese Government if there has not been some infringement or interference by the Osaka Authorities with the sale of this article contrary to the general understanding or interpretation of the Treaty or Tradal regulations governing such cases.

We remain Sir,

Your most obedient servants,

China and Japan Trading Company,

Thos. F. McGrath,

Manager.

To the
Hon. John F. Swift.
U.S. Minister
Tokio.

Enclosure with Mr. McGrath's letter, to Mr. Swift, dated Sept4mber 5th, 1889.

Translation Copy.

Osaka, 3rd, September 1889.

To China and Japan Trading Co.

Yokohama.

In reply to your note of the 31st, ultimo regarding the Scott Emulsion, we now have to say that we have called Takeda Chobei and three others the agents for the sale of the Emulsion and have told them that they must get license for the Scott Emulsion as a patent medicine.

This is in accordance with the instructions we have received from the Home and Finance Departments in answer to our inquiry to those Departments about the Emulsion which is advertised in the papers.

(Stamped) The Board of Health,

Osaka Fu.

DEPARTMENT OF STATE
MAR 1 1890
RECEIVED.

DIPLOMATIC BUREAU
MAR 8 1890

No. 89.

Mr Coolidge

Legation of the United States.
Tokio Japan. Feby 5. 1890

2d ASSISTANT SECRETARY.
Ack by subject & file.
MAR 3 1890

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Mr. Swift:

To the Secretary of State.

Subject:

Clippings from the "Japan Mail" and "Japan Herald" of Feby 4. 1890. on the question of Treaty Revision.

No. 87. Legation of the United States.

Tokio Japan, February 8, 1890.

Hon. James G. Blaine.

Secretary of State,

Washington, D. C.

Sir:

I have the honor to enclose herewith, for your information, certain Editorial and other clippings, from two of the three English newspapers published in Yokohama, namely the "Japan Herald" and the "Japan Mail," bearing upon the subject of Treaty revision.

The articles will sufficiently explain themselves.

Both journals are owned by gentlemen of high standing in the

the community, and both are edited and conducted with a high order of ability. The "Mail" is understood to have a pronounced bias or leaning towards the Japanese side of pending questions. If not a quasi organ of the Government as some pretend to think, it evidently has sufficiently close relations with high officials to be, in most cases, remarkably well informed as to Government plans and purposes.

The "Herald" on the contrary, at least since I have been in Japan, has leaned rather against the Government and while it has not, to my recollection, attacked the new treaties, has certainly not favored them. I think it may be justly said that as to most subjects it expresses the views entertained by

by the English merchants here and, probably, as to Treaty revision, it fairly voices the opinions of its patrons, the foreigners of all nationalities resident and engaged in trade in this country.

I have the honor to be

Sir,

Your obedient servant,

John F. Steele

Enclosures: 1 & 2

Clippings from the "Japan Mail" and "Japan Herald" of the 4th. February 1870.

Enclosure 1 with Mr Swift's No. 89

The Japan Daily Herald.

TUESDAY, 4TH FEBRUARY, 1890

THE question of the alleged inducements by which Germany was, last year, induced to sign a new treaty with Japan has been once more ventilated in the *Spectator*. It is rather trying to find an English newspaper of this rank reverting to these long exploded ideas. The late U. S. Minister at this court used, we know, to write home respecting the preference shown to certain countries, &c., and the trade which was thus to be poured into their hands because they were sympathetic with Japan. Ministers however are not expected, necessarily, to know much about business matters, and in many cases they prove that they do not. Had Mr. HUBBARD been a little more conversant with commercial matters, he would have known that business is not a matter of sympathy, above all with Japanese. They are a most prosaic people, and purchase in the cheapest, and sell in the dearest market. We are certain that not one extra business transaction has been done either with German or American firms, purely and simply because the two countries from which they come had concluded new treaties last year. Were the people who write this stuff a little more conversant with the subject, they would see how wide their remarks were of the truth. Whether it were wise for Germany and the United States,—or rather the United States and Germany, for it was in this order that the secession took place,—to withdraw from the international compact without notice, it is now too late to question, inasmuch as it is a *fait accompli*, although it is by no means certain that the treaty with the U. S. would have passed the Senate. With Germany, however, the treaty would no doubt have been ratified, had not its author, Count OKUMA, been unable to carry out his policy. The German treaty was, however, so far as we understand, negotiated and concluded in Berlin, and had it not been so, we doubt whether it would ever have seen the light. Of one thing at least we are sure, and that is that the German merchants here were by no means enthusiastic over the prospect opened out to them, nor were they enabled to perceive that they had a monopoly of all the fat pickings in the shape of contracts, &c. So far from this being the case, they did not appear to be at all exhilirated at the prospect before them. Whether any fresh trade would through it have accrued to Germany is, however, considerably more than doubtful, even had the treaty been carried out. The total amount of Government imports in the year 1888 amounted to a little over three million dollars, and in 1889 they were a million less. Even if every dollar of this trade could be transferred to those countries which have concluded new treaties with Japan, it is absurd to suppose that, even if Japanese Ministers were willing to act upon this principle, countries such as the United States or Germany could be bribed by the addition of an extra million to their exports. It is idle therefore to talk of these nations as having been induced to conclude these treaties from the great advantages their commerce would receive, for outside these Government contracts it is difficult to see what could have been gained. The great mass of the imports to Japan in the present day are in the hands of private individuals, and it is in the highest degree improbable to suppose that they, whether in the form of ship-owners, railway companies, or whatever they may be, will deliberately go and purchase in a dearer market because that one country has concluded a treaty with Japan. One of the best proofs of this is in connection with America. Although so comparatively close to Japan, its exports to this country, except in kerosene or flour, are practically *nil*. There is no need to ask why, simply because Japan can get almost everything else that the States have for sale, equally good, and at much lower prices from Europe. So far as statistics show us, the trade with those particular nations which are said to be most friendly to Japan does not increase in any larger proportion than that of other countries, and as we mentioned a few days ago, that of Germany seemed, last year, to show a falling off. Evidently therefore that country did not gain much by her complacency in regard to the treaties.

Enclosure 2 with Mr Swift's No. 89

The Japan Daily Mail.

YOKOHAMA, TUESDAY, FEBRUARY 4, 1890.

THE "SPECTATOR" ON GERMANY AND JAPAN.

WE have no right, perhaps, to expect that newspapers published thousands of miles away from Japan should discuss Japanese affairs with knowledge sufficiently accurate to satisfy dwellers in the country itself. And, indeed, when we remember that Japan has not yet forced herself upon Western attention by becoming the scene of any of those incidents which alone seem to fix men's gaze in this nineteenth century; that she has not made herself notorious by religious persecution, by internecine quarrels, by international violence, or by acts of weakness inviting foreign aggression, we may fairly refrain from complaints because her contemporary history and affairs receive somewhat perfunctory treatment at the hands of far-off journalists. Happy is the country that finds itself tranquilly reposing beyond the ken of the newsmonger and the telegraphist, and that has nothing worse to lament than the indifference of a covetous and censorious world. Yet the Japanese people are apt to resent rather than to rejoice over the silence with which the Occident passes them by, and do not hesitate to express surprise when an occasional writer finds them sufficiently interesting for a display of his own ignorant smartness. They heard themselves talked about more frequently and even with greater accuracy in the days when it seemed likely that strong recourse to bayonets and bullets could alone break down the walls of their isolation, and the retrospect, we think, should reconcile them somewhat to their present obscurity. They will probably, say, for example, after reading the article from the London *Spectator*, which we reproduce elsewhere, that a journal of such standing should be better informed, and would take care to be better informed if an Occidental State were the subject of its criticisms. But, after all, it is not with reference to Germany that the *Spectator* betrays the greatest lack of perception and knowledge? Concerning Japan there is nothing said that does not emanate from an evident disposition to view the country with kindly and even partial eyes. The *Spectator* makes out a better case for this country than we should ourselves have ventured to state. For while recognising, with truth, the excellent character of Japan's criminal laws and the efficiency of their administration, it asserts also that her "civil relations are regulated by a system of law similar to that prevailing among the European nations." Such may indeed be the fact. We have heard it stated by men deserving of credence, that if the judgments delivered during the past few years by Japanese civil tribunals were examined, there would be found running through them a distinct vein of Western Jurisprudence. We do not deny it, but on the other hand, we do not know it; and ignorance in such matters necessarily involves doubt. The *Spectator*, however, is quite satisfied. It admits that Japan's plea to be recognised as a civilized Power, in the Occidental sense, is "by no means baseless," but it has a good deal to say about the fashion of the recognition. All the Powers, according to the *Spectator's* view, should have united to perform the act of acknowledgment, thus investing it with the character of a public declaration that by paths such as Japan has followed, and by such paths only, can an Oriental State hope to gain admission to the pale of Christendom. Instead of this very orthodox and stately method, justice has been bought and sold. Instead of a concurrent movement by all the Powers under the impetus of a high moral principle, the uniformity of their action has been disturbed by the vulgar processes of barter and bribery. Germany, tempted by tradal concessions, has deserted her colleagues, conceded for greed what she should have granted by conviction, and a possible grand panorama of Powers stepping in time to the music of Right, has been perverted into the demoralizing spectacle of a scramble among Great States for the shekels of commerce. The *Spectator* does not know that the United States of America preceded Germany in this business; does not know that the solidarity of Powers had been broken up by a telegram from Washington before Berlin moved definitely; and does not know that not till every possible effort had been made to secure unity of action on the part of the Treaty Powers, not till years of negotiation, of heart-breaking failure and of untiring patience had proved the utter hopelessness of trying to bring into concert Seventeen Powers swayed by conflicting interests and mutual jealousies—not until then did Japan reluctantly resort

to the method of separate treaties. As for the supposed privileges in consideration of which Germany has so far forgotten herself as to play the undignified part ascribed to her by the *Spectator*, we have only two things to say; first, that if Germany greatly valued those privileges, she has shown singular forbearance in not pushing Japan to ratify the treaty conferring them; and secondly, that Germany's opportunity really lies, not in gaining access to the interior of Japan, but in helping this country out of the difficulties into which the obduracy or distrust of other Powers throws it. What German trade can gain by access to the interior is not at all as important as what Germany may gain by good offices rendered to Japan in the latter's time of embarrassment. The Government at Berlin is, of course, bound to consider German interests first, but for some years it has shown that, in its opinion, the best way to promote those interests in this part of the Orient is by cultivating Japan's friendship. The *Spectator*, in its usual musing manner, betrays much moral disturbance about Germany's want of self-respect, and is frankly apprehensive lest the Cabinet at Berlin should follow this evil precedent and sell its extraterritorial birthright for a mess of commercial pottage in other lands also. The thing does not much matter in Japan, because there the laws and their administration invite confidence; but if Germany repeats this dreadful performance in Turkey or in China, for example, and if other States, deeming that they cannot afford to let her purchase a monopoly of tradal privileges even at such a cost, feel bound to follow her example, then indeed we shall be confronted by sad complications. It scarcely seems worth while to discuss this "fine fear." Were the conditions in Japan different from what the *Spectator* itself describes them to be, Germany's action might lend itself to our contemporary's interpretation. But because a man lowers his umbrella when the sky is clear, it does not follow that he will deliberately expose himself unprotected to rain and hail; and because Germany, deeming that the old-fashioned guarantees are no longer required in Japan, has agreed to dispense with them, it does not follow that she will be equally confiding in countries where circumstances inspire no exhibition of similar confidence. The *Spectator* writes as though Germany were a species of commercial adventurer, with less care for the first objects of a civilized government's attainment, than for the chances of commercial gain. We entertain a very different opinion of that empire's motives; nor have we the smallest fragment of apprehension that where the United States of America and Germany lead the way, other Powers need hesitate to follow.

GERMANY AND JAPAN.

It looks as if the new German policy under which the Imperial Government strives to develop the trade of the Fatherland with all the ingenuity and eagerness of a pushing commercial house, were going to bring about some not altogether pleasant results in the Far East. Up till now, the various Christian races, whether of the Old or the New World, have agreed to insist that the laws of non-European and non-Christian countries must not be applied to persons of European blood. Wherever the white man goes—among Mahommedans, Chinese, or Japanese—his own law, it has been always held hitherto, must follow him, and all disputes between him and the natives must be adjudged by Judges of his own race and according to his own principles of jurisprudence. Only under such an arrangement as this has it been considered that justice could be secured. Now, however, the Germans, as far at least as Japan is concerned, have broken through the tacit agreement between the nations to act together, and have negotiated a treaty under which they agree that German subjects resident in the interior shall at once become fully subject to Japanese law, and that after the lapse of five years, their exclusive settlements at the Treaty Ports shall cease to be under Consular control, and shall be merged in the ordinary "communes" in which they are situated. In other words, the Germans, in consideration of being permitted to establish themselves in the interior, agree to treat the Japanese as if they were Russians or Italians, and to accept as binding the laws of those among whom they settle, and with whom they enter into business relations. The object of such action is not far to seek. At present the trade of Japan is practically divided between the English and the Americans. If, however, the Germans gain the right of admission to the interior, while their rivals are excluded, they will, they reckon, be able to establish trading posts and set up mercantile establishments which will ultimately give them the complete command of commerce in the dominions of the Emperor of Japan. The opportunity for improving their position thus presented to them proved, in fact, too powerful a temptation to be resisted by the Germans, and they have accordingly taken the first step towards breaking up the combination which has hitherto forced the barbarous and semi-barbarous Powers to submit to the existing system of Capitulations.

How momentous may be the consequences of Germany's action upon the position of all Europeans in the East, is easily seen. As regards Japan, it can hardly be doubted that the other Powers must soon follow Germany's example. If they do not, they are certain to see the trade fall into the hands of the specially favoured nation. Doubtless in Japan—for reasons we have given below—this general submission to the law of the land will not greatly matter. Elsewhere, it may be a source of very serious mischief and inconvenience. Suppose Germany, in exchange for special and exclusive privileges granted by the Sultan, were to agree that the commercial transactions of her subjects should be adjudicated on by Mussulman Cadis. In the end, the other Powers would be obliged to follow suit. Nor is the danger confined to Germany. The mere fear that she may continue the policy begun in Japan, is quite enough to induce some other Government to be beforehand with her. "Sooner or later," another Power may argue, "Germans, in their feverish competition for trade, will again sell their Capitulations for the grant of exclusive rights and then, whether we like it or not, we shall have to adopt the same policy. Better, then, be first in the field ourselves, and get the advantages that will fall to the originators of such proposals." In fact, the Powers are much in the position of a body of men who hold a piece of secret information which can only be sold once. Directly mutual confidence is destroyed, there is a scramble as to who shall be the first to dispose of it to advantage. There will, of course, be some people to whom the gradual abandonment, or at any rate the weakening, of the system of Capitulations will seem by no means unsatisfactory. They will argue that it is exceedingly unjust that nations which do not happen to have the same notions as to morality and religion as ourselves, should therefore be refused the full privileges of independence, and that, accordingly, the sooner all such things as Capitulations are done away with the better. No doubt, theoretically, there is something to be said for such a view. Practically, however, there is very little. Justice, when administered in conformity with the notions that obtain in China, and applied to complicated commercial concerns, could only end in disputes and outrages which would be sure sooner or later to necessitate a recourse to arms, and so to far greater infringements of national independence than those occasioned by the existence of Consular Courts. To obtain an advantage over its rivals, some one or other of the Powers is capable of saying that its subjects shall submit their persons and property to Chinese criminal and civil law. The first time, however, that a European merchant, though admittedly guilty, is bastinadoed, has his eyes beaten with bags of quicklime, or is put into the wooden cage, action is certain to be taken on the part of the nation to which he belongs, and action which will end in placing Europeans above all law,—a far worse result than that which obtains at present.

But though we feel strongly the importance of maintaining the principle of the Capitulations generally, we are by no means prepared to say that the Japanese are not now fit to be admitted into the family of civilised Powers. If, however, this is so they should have been recognised as entitled to such consideration by the joint action of the Powers, and not by one nation breaking away from the common agreement. The plea of the Japanese to be recognised as a civilised Power is by no means a baseless one. In the first place, the laws by which the country is now governed are known and certain, and are, in principle, analogous to those which obtain in Europe. As regards criminal matters, they have adopted a code based on the Code Napoleon, while their civil relations are regulated by a system of law similar to that prevailing among the European nations. Further, the chief judicial posts in Japan are held by men who have been trained in the law schools of England, America, France, or Germany, and who, so far as knowledge is any guarantee for justice, could be relied on to prevent any gross mistakes. As we have said before, these facts all tended towards the early recognition of Japan as a civilised sovereign Power, possessed of rights and duties equal to those of the European nations. Such admission by universal consent would have been a useful example for the other non-Christian States, as showing them the conditions under which they could obtain the treatment of equals. The opportunity, however, has unfortunately been missed. Instead of the Asiatic Powers being shown that improvement in civilisation is the condition of equaly treatment, it has been made clear to them by the action of Germany that a little judicious bribery will easily break up the European agreement in regard to the Capitulations.—*Spectator.*

From U.S. Legation to Japan

DEPARTMENT OF STATE
FEB 8 1890
RECEIVED.

Friends' Institute,
1305 Arch Street, Philadelphia.

July 7th 1890

To Hon. Jas. G. Blaine
Secretary of State
Washington D.C.

To Mrs Fujita
Aug 10 1890

Sir:

My children having sufficiently recovered in health I beg leave to inform you that it is my intention to leave here for Tokyo via Vancouver tonight. I should feel greatly obliged by your Sir, if upon receiving a telegram from me of my departure from Vancouver, the Department would feel it right to inform the Minister Mr. Swift of the

Friends' Institute,
1305 Arch Street, Philadelphia.

fact, because I have been unable to write him positively of the time of my departure, owing to the uncertain health of my children and I think that it may possibly make some difference as to the arrangements about my substitute. I sincerely thank you for your kindness I have the honor to be

Sir.

Your obedient servant

Willis Norton Whitney

Interpreter of Legation

TWENT C. C. AVE
MAR 17 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAR 19 1890

Mr Cowles

No. 90 file
Ack'd by Mr Hall
Copy to Mr Seaton for Mr Blaine

Legation of the United States.
Tokio, Japan, Feby 10, 1890.

Mr. Swift
To the Secretary of State.

Subject:
Death of Mr. Walker Blaine.

No. 90. Legation of the United States.

Tokio, Japan. Feby. 10, 1890.

Hon. James G. Blaine,

Secretary of State,

Washington, D. C.

Sir:

The intelligence of the death of Mr. Walker Blaine reached this Legation yesterday morning, along with other news, by the Canadian Pacific steamer "Parthia".

It is only justice to the memory of the departed to say, that his name and reputation were well established in this distant Capital, and that throughout the community, in diplomatic society and elsewhere, the expression of sorrow has been universal and sincere. To say that

that all connected with this Legation were grieved at the — affliction which has visited the Secretary of State and his family, would be an inadequate expression of the feeling the mournful event has produced. We were shocked beyond power to express.

I met the young gentleman for the first time in 1881 and was charmed and captivated by his singularly graceful and attractive manner. In consequence of the opinion I then formed, I have ever since watched his career with — sympathetic interest.

Having already learned to appreciate his talents and intellectual equipment, it followed that when

when in March, 1889, I again saw more or less of him during some weeks in succession, in the ante-chamber of the Secretary's Office at the State Department, engaged as acting Assistant Secretary of State, despatching business with the self-poise and rapidity of a veteran statesman united to a debonairness peculiarly his own, receiving scores and hundreds of ——citizens having business with the Department, listening with untiring patience to the details of each application and evincing a kindly and gracious interest in all and, when done, dismissing his visitor with an engaging word and smile, that always secured a friend. I felt that he possessed qualifications

qualifications for public life of a high order, such that, in the end, could not fail to secure for him a place in the nation, of which his friends would be proud.

I left Washington firmly of the opinion that Walker Blaine was among the rising men of the country and the most promising within my knowledge. As an American citizen I feel a serious loss has been made. Nothing that I can say — nothing can be paid to mitigate the grief of a parent for the loss of such a son. It would be idle to make the effort.

I beg that you will accept for yourself and your family

the

the sympathy and condolence of myself and wife, of the Secretaries of Legation, Messrs. Dun and Gardiner, of acting Interpreter Mr. Thompson and of all connected with this Legation.

I have the honor to be,

Sir,

Your obedient servant,

John F. Swift

DEPARTMENT OF STATE
MAR 17 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAR 20 1890

No. 91.

Recd March 21. 90

Legation of the United States.
Tokio Japan, Feby 16, 1890.

Mr. Swift:
To the Secretary of State.

Subject:

"Scotts Emulsion," Vis count Aoki's Precis of interview on that subject: Mr Swifts Memorandum to Vis count Aoki, correcting mistakes in Precis.

No. 91. Legation of the United States.

Tokio Japan, Feby 16. 1890.

Hon. James G. Blaine,

Secretary of State.

Washington D. C.

Sir:

On the 7th instant, the day of the closing of the mail by which my despatch No. 88. dated February 6th, 1890, concerning the Excise duty upon "Scott's Emulsion," was sent to you, I received from Viscount Aoki, H. I. J. M's. Minister of State for Foreign Affairs, a paper purporting to be a Precis of the interview upon that subject, which took place at the Foreign Office on the 28th ultimo, giving Viscount Aoki's version thereof.

M.

It was also accompanied by a separate note, with English translation, a copy of which I herewith enclose.

The note and Precis arrived, however, after my despatch was substantially made up and too late to enclose with it.

Upon examining the Precis, a copy of which is herewith enclosed, I found that my part of the conversation had been misunderstood, or at least misinterpreted in certain particulars which, though not material to the question were yet, as I considered, deserving of correction. The corrections were made in a "Memorandum" which I prepared and sent to His Excellency, on the 10th instant; a

copy

copy of which is, herewith, enclosed.
You will observe that Viscount Aoki's version of his own statements agrees with my own upon the main point: namely:-
First;- that H. I. J. M's. Government has levied an internal, or Excise, as well as a license tax, upon the article of American production known as "Scott's Emulsion".
Second;- that they do this under a construction of the treaty, which they hold, permits of it: and
Third;- they thus claim that without violating the treaty, they may do the same with respect to kerosene oil, tobacco or any other article of American production whenever they are

so

so disposed. This I regard to be all that is material to the question submitted to you for instructions in my despatch above named.

As I have already given my reasons for considering this position to be violative of the Treaty and practically in subversion of it, I will not add any further remarks but submit the matter upon my former statement:

But I cannot refrain from availing myself of this opportunity of calling your attention to the great difficulty under which this Legation labors for want of a sufficient linguistic service. The most perfect system of communication possible between

Europeans

Europeans and Japanese is full of difficulties. The present instance shows the defects of the service at this Legation in a marked manner.

In the absence of the official Interpreter of this Legation and knowing that Viscount Aoki himself has for a Japanese a fair knowledge of English and also that the Interpreters of the Foreign Office, where there are three or four are considered Excellent in their line, I ventured on the occasion of the above named interview with Viscount Aoki, to go thither alone, trusting to His Excellency's knowledge of English and the Foreign Office Interpreter as sufficient to Enable me to communicate my views.

The

Blind

The result will be found by comparing the three documents respectively intended to put into writing the communication; the first being my own Precis of the 23rd ultimo, and the others Seventh Enclosed.

Any one whose notions of language is based upon the various European tongues, put on paper by means of the Roman alphabet, can form but a faint idea of the almost impassable gulf that divides European and Asiatic thought. To add to the difficulty of intercommunication, it seems that people whose only means of recording speech consists of the use of the Chinese ideograph are

are unable to do their best thinking except with the pen. The spoken language is crude and must be supplemented by the written character. It is a common thing to see two educated Japanese when talking together making imaginary marks with the finger in the palm of the hand. They have thought of a character stronger than any spoken word and are representing the idea with a picture.

On reading Vis count Aoki's Precis you will readily observe that I have been represented by the interpreter as saying things quite unwarranted under the circumstances, besides showing

a

a supercilious and lectoring spirit certainly uncivil and bordering closely upon the offensive.

Of course it is not absolutely impossible that my words may have been wilfully misconstrued and an offensive color given to them with a view to gain some imaginary advantage over me in the controversy. But this I shall not be willing to believe without stronger reasons than I have or am likely to have.

It is almost impossible to carry on in writing every negotiation through all of its branches. Personal interviews at times with verbal conversations seem to be indispensable. I now perceive very clearly

clearly that upon every such occasion the presence if not the actual services of a capable Interpreter is essential, if not to preserve the public interests, certainly to save the Diplomatic representative from personal embarrassments as painfully mortifying to his fulings as would be an actual failure to accomplish satisfactory results. But until I have at this Legation a thoroughly reliable and capable Interpreter, both of the written and spoken language, who is able to devote his entire time to the business, I shall feel it to be my duty in order as

as much as possible, to avoid the risk of being misunderstood, to carry on all important and as many as possible of minor negotiations by correspondence in writing.

I have the honor to be

Sir.

Your obedient servant.

John F. Swift

Enclosures:

1. Vis Count Aoki to Mr Swift;
Feby 6. 1890.
2. Viscount Aoki's Precis.
Jany 23. 1890.
3. Mr. Swift to Viscount Aoki
February 10. 1890.
and Mr Swift's Memorandum
Feby 10. 1890.

Enclosure No. / with Mr. Swift's No. 91

Translation Copy.

No. 6. Department for Foreign Affairs,

Tokio, the 6th, day, the 2nd, month,

the 23rd year of Meiji.

(February 6th, 1890).

His Excellency,

John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

Sir:

I have the honor to acknowledge the receipt of Your Excellency's note bearing date the 24th, ultimo, in which you enclose for my examination and approval, a memorandum of our interview of the day previous.

In view of the statement contained in your note to the effect that in the event you heard no objection from me before the departure of the next mail, you would assume that your understanding and recollection of the conversation as set forth in the Precis was substantially correct and that you should forward it to your Government, I feel compelled to draw your attention to the fact that the note and Precis did not reach this Department until half past one o'clock in the after noon of the 28th, ultimo, that is, not until some time after the mail succeeding the the date of your note, had actually been closed in Tokio.

Apart from the question of the immediate disposition of the Precis made

by you of the Precis I beg to say that H.I.M's Government would not under any circumstances regard themselves as concluded by the fact that they had from any cause been prevented from replying to a communication within a specified period unless indeed, they had themselves consented to the limitation of time. And this reservation permit me to add, is all the more important in the present instance, as I am reluctently compelled to withhold my adhesion from your Excellency's Precis.

Immediately after your departure from this Department on the 23rd, ultimo, Mr. Miyaoka, who was present at our interview, prepared in pursuance of instructions from me, a full and complete record of our conversation. Instead of attempting to point out specifically the particulars in which my understanding of what occurred at the interview, is at varience with your recollection of the same incidents, I beg to inclose herewith a copy of Mr. Miyaoka's Precis , with the remark that it has my approval. I cannot, however, permit myself to pass over this branch of the subject without expressing surprise at the remarks attributed to me in your Excellency,s Precis, to the effect that I stated that I could not take into account what the American people might feel or think and that the rights and interests of Japan alone were the subject of my concern. I have no recollection whatever of making use of any such declaration and I now frankly avow that if words bearing any

such

such construction had escaped from me during the interview they would have been contrary to my own sentiments and opposed to the sentiments of H.I.M's Government.

In deference to Your Excellency's expressed disinclination to discuss the merits of the question of the right of the Imperial Government to impose an internal tax upon imported licensed medicines, I shall of course refrain from presenting to you those important considerations upon which the decision of the Imperial Government was predicated. H.I.M's Government value too highly the friendship and good opinion of the United States to permit the Cabinet at Washington to remain in ignorance of those considerations, and I shall consequently deem it my duty to communicate to the Government of the United States on the subject through H.I.M's Legation at Washington.

It is however, proper for me to correct several misapprehensions of fact under which you labor. The present action of the Imperial Government implies no departure from the construction of the Treaty between our respective Governments which had always previously prevailed. On the contrary the law complained of only went into operation seven years ago, and whenever any questions have arisen under it or under similar statutes, the rulings of H.I.M's Government have been uniform and in harmony with the present decision. The Imperial Government have not picked out an article of American production upon which to essay a new interpretation

of

of their Treaties. It was certainly intended that the law should be universal in its application, and if, as you assert, articles falling within the purview of the enactment have escaped taxation, it was an error of the tax officers of the Government, which will without delay be rectified.

I avail myself of this opportunity to renew to your Excellency the assurances of my highest consideration.

(Signed) Viscount Suizo Aoki,

H.I.M's Minister for Foreign Affairs.

Enclosure 2. with Mr Swift's No. 91

Copy.

PRECIS

of an interview at the Ministry of Foreign Affairs, Tokio, January 23rd, 1890, in reference to the right of the Japanese Government to levy a License and Excise tax upon a Licensed Medicine known as "Scott's Emulsion of Cod-liver Oil".

There were present: Their Excellencies Mr. Swift United States Minister and Viscount Aoki, H.I.J.M's Minister of State for Foreign Affairs. Mr. Miyaoka acted as Interpreter.

Mr. Swift opened the conversation by calling attention to Viscount Aoki's note of the 17th, instant. He had sought this interview, he said, in order to ascertain the extent to which the Japanese Government claimed the right to carry the principle of taxing internally imported goods. He was anxious to know, he continued, whether he was correct in assuming that the Japanese Government claimed the right to place excise taxes upon all goods imported from the United States.

Viscount Aoki in replying to Mr. Swift's inquiry expressed a disinclination to discuss the question in the comprehensive sense in which it was propounded. He, however, pointed out to Mr. Swift, that a special law existed by virtue of which certain internal taxes were imposed on Licensed Medicines. That law was, in the opinion of the Japanese Government, he said, equally

applicable

applicable to Licensed Medicines imported from abroad. He added in the same connection, that the Japanese Government claimed the right to make all necessary administrative regulations concerning the health and safety of the people, and finally after being pressed by Mr. Swift for an answer to his question, Viscount Aoki declared that the Japanese Government were of the opinion that under existing Treaties, they still had the right to place certain internal taxes upon goods imported from abroad.

Mr. Swift observed that "Scott's Emulsion" was in itself but a trifling matter. The general construction which the Japanese Government were now endeavoring to introduce into their Treaties was of much more serious importance. It seemed to him that the Japanese Government were trying to overthrow the interpretation of their Treaties which had prevailed for thirty years, and it looked to him, he said, as though they had picked out an article of American manufacture upon which to make the first attempt. If, he continued, he should write details of this matter to Washington, - and he expressed his intention to do so, - the Government and people of the United States would think that the Japanese Government had imposed upon their friendship, and they would naturally conclude that their friendly policy was disadvantageous to them. Mr. Swift concluded by referring to the Treaty of 1878 as evidence of the kindly feeling manifested by the United States towards Japan.

Viscount Aoki

Viscount Aoki expressed a conviction that a nation lost nothing by maintaining a friendly attitude towards other states, and he would, he said, regret exceedingly if Mr. Swift's report concerning the action of the Japanese Government in this matter created at Washington the impression which he, (Mr. Swift) had predicted that it would. He was, he added, fully aware of the cordial and friendly relations which had always existed between the Governments and people of Japan and the United States and he well knew that it was the desire of the Imperial Government to perpetuate those relations. It was consequently a source of regret for him to learn as he had just done, that Mr. Swift labored under the impression that the Japanese Government had picked out an article of American manufacture upon which to experiment in the matter of taxation. He assured Mr. Swift that the Japanese Government have no desire whatever to make any discrimination. In a question of this kind the Japanese Government could not regard at all the place of production or manufacture. Had "Scott's Emulsion" been manufactured in England or Germany instead of America, Viscount Aoki was positive it would have been subjected to exactly the same tax as is now imposed.

Mr. Swift desired to know if any articles imported from countries other than America were subject to an excise tax.

Viscount Aoki replied that he had no general report from the Department of Home Affairs, but he happened to

have

a special report which mentioned that a Licensed medicine called the "Pain Killer" was taxed in the manner complained of by Mr. Swift.

Mr. Swift observed that the Pain Killer" was also an American preparation and he again invited Viscount Aoki to indicate a single medicinal preparation imported from some other country - Germany for instance - upon which an excise tax was levied.

Viscount Aoki repeated his former statement on the subject to the effect that he was not in possession of a general report from the Department of Home Affairs. He reminded Mr. Swift that the licenses were granted and the taxes assessed and collected by the local officials. This fact, he thought, would account for the absence of more explicite information on the subject and it would also explain any conflicting practices that might exist in different parts of the country. Viscount Aoki volunteered to obtain the desired information from the local authorities if Mr. Swift desired it.

Mr. Swift said he had no desire to possess such information. He contented himself with declaring that in levying an excise tax upon goods imported from the United States, the Japanese Government violated their treaty engagements.

Viscount Aoki was unable to concur in this opinion as he thought the Japanese Government had not surrendered the right to impose the tax in question.

Mr. Swift called attention to Art. 111 of the Treaty of 1858. He thought, he said, that that article had been overlooked by the Japanese Government. It provided that Japanese might freely sell any article sold to them by Americans. He had, he added, consulted other gentlemen belonging to the Diplomatic Corps and they had all united in declaring that they had never before heard of the construction that the Japanese Government now seek to put on their Treaties.

Viscount Aoki denied that the Japanese Government had prohibited the sale of "Scott's Emulsion. They had only exercised their right to levy an internal tax upon that article in common with other Licensed medicines - both Domestic and Foreign.

Mr. Swift said that Viscount Aoki's last observation was only a repetition of the statement contained in the note under discussion. What he wished to know, he said, was whether Japan claimed the right to levy an additional tax on imported goods and if they did, whether they claimed that the right of internal taxation extended as well to general merchandise such for instance as kerosene and tobacco.

Viscount Aoki had no doubt as to the abstract right of Japan to impose the tax in question on kerosene or tobacco but as a matter of fact he said Japan had made no attempt to impose the duty. Kerosene was under the law free from internal taxation while the only internal impost on tobacco was a manufacturers tax so that imported tobacco was free after paying the Customs duty.

Mr.

Mr. Swift was anxious to know if the Japanese Government claimed that they had the right to enact a law at any time imposing an internal tax on imported goods.

Viscount Aoki replied in the affirmative and in that connection he recalled Mr. Swift's attention to the fact that in 1888 the Finance Minister issued a notification modifying the system that had previously been in vogue, of calculating dutiable values for customs purposes. That action was a departure from the preexisting practice, but it elicited no protest from the Treaty Powers.

Mr. Swift was able to preceive a distinction between the two cases. He did not think that the action of the Minister of Finance was violative of the Treaty. But he was unable to discover any reason why the Japanese Government might not tax internally kerosene and all other articles imported from the United States if their contention concerning "Scott's Emulsion"was correct.

Viscount Aoki replied that the law determined what articles should pay internal taxes and while under existing statutes several articles were subject to excise he believed that Licensed Medicines were the only articles that were taxed that were imported.

Mr. Swift was unable to discover why the Japanese Government desired to revise their Treaties, if the right of taxation which they now claimed was unqualified.

Viscount Aoki pointed out that there were other

questions

questions involved in the subject of treaty revision. The Japanese Government, he maintained, had no desire to levy an internal tax on kerosene. Had they deemed such a course good policy, of course it would have been absurd to discuss customs duties in connection with treaty revision.

Mr. Swift wished it understood that he was not referring to the intention or desire of the Japanese Government. He was dealing solely with the question of right and he again asked if in contemplation of their treaties the Japanese Government claimed the right, - apart from their intention to exercise the right,- to impose an internal tax on duty-paid imports.

Viscount Aoki again replied in the affirmative.

Mr. Swift thereupon expressed the conviction that Japan had by her treaties surrendered the right. He then referred to the"Likin" tax which was collected in China, and expressed the opinion that the stipulations in the Treaty of 1858 on the subject of taxation, were inserted in order to prevent Japan from levying a Likin tax.

Viscount Aoki agreed with Mr. Swift as to the intention of the Treaty. Likin, he pointed out, was a transit tax and Japan had, he was satisfied, waived her her right to levy any tax in connection with transportation upon imported goods but the express qualification, in his opinion, implied the right to impose other taxes.

Mr.

Mr. Swift on the other hand thought that if Japan was debarred from levying Likin she was equally prohibited from instituting any kind of excise tax upon duty paid imports.

Viscount Aoki adhered to his former construction of the treaty provision concerning the question of taxation upon transportation. It was clear to his mind that Japan had surrendered her right in regard to transit taxes, but he could not admit that the surrender applied to other kinds of taxes. So long, he said, as Japan makes no distinction between domestic and imported goods in the matter of taxation he was unable to preceive what valid objection could exist.

Mr. Swift based his objection upon the fact that the claim was violative of the Treaty. He should, he declared, report this matter to his Government and inform them that Japan had violated her Treaty. He thought it unfortunate that in her endeavor to get rid of her treaties, Japan should select the United States - a Power that had invariably manifested its friendly feeling for Japan - upon which to begin the experiment.

Viscount Aoki denied that the Japanese Government had any such intention as that attributed to them by Mr. Swift, and he thought that the history of Japan's foreign relations and the manner in which she had in good faith fulfilled onerous treaty-stipulations proved the contrary. Besides if Japan had been actuated by the motives which Mr. Swift attributed to her, she would hardly have

raised

raised the issue upon a matter of such trivial importance as the imposition of an excise tax upon a medicinal preparation.

Mr. Swift thought the Japanese Government knew exactly what they were attempting to accomplish.- He repeated that Japan was violating her treaties and he again declared that he was of the opinion that she was doing so in order to get rid of her engagements.

Viscount Aoki said that it was apparent that they had reached a point in the discussion where they could no longer agree, he, therefore, suggested that future arguments be reduced to writing. If, he continued, Mr. Swift would address him on the subject, he (Viscount Aoki) would reply and in that way he hoped they might be able to arrive at a common understanding.

Mr. Swift declined to adopt the suggestion. He was satisfied, he said, that Japan had violated her treaty and it only remained for him to communicate with his Government on the subject.

Viscount Aoki acknwledged the right of Mr. Swift to communicate with his Government in any sense he saw fit. If Mr. Swift declined to discuss the question he (Viscount Aoki) had nothing more to say.

Mr. Swift expressed his intention of preparing a Precis of the interview and he added that he would send a copy of it when completed to Viscount Aoki for examination and approval.

Viscount

Viscount Aoki replied that he should be happy to receive the Precis

This terminated the interview.

Department of Foreign Affairs,

Tokio, the 23rd day of the 1st, month 23rd year of Meiji (January 23, 1890).

Enclosure No. 8 with Mr. Swift's No. 94

Copy.

No. 41. Legation of the United States

Tokio, February 10th, 1890.

His Excellency,

Viscount Suizo Aoki,

H.I.J.M's, Minister for Foreign Affairs.

Viscount:

I herewith transmit to you a memorandum in which I take the liberty of calling your attention to and correcting what seems to me to be certain misinterpretations of my part of the conversation, that took place on the 23rd, of January last, concerning the matter of the excise tax on the article known as "Scott's Emulsion", which misinterpretation, I have no doubt, was unintentional and the result of natural difficulties of translation.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Signed) JOHN F. SWIFT.

Enclosure with Mr. Swift's No.

Copy.

MEMORANDUM.

Mr. Swift has the honor to acknowledge the receipt of His Excellency, Viscount Aoki's Precis of the interview which took place at the Ministry of Foreign Affairs, January 23rd, 1890, in reference to the right of the Japanese Government, under existing treaties, to levy a license and excise upon an article of American production known as "Scott's Emulsion".

And while satisfied in the main with His Excellency's version of the affair which he, Mr. Swift, considers to be upon all material points substantially identical with his own Precis furnished on the 23rd, of January, 1890, yet, nevertheless, upon certain matters immaterial to the principal question he finds that some inaccuracies, especially as to remarks attributed to Mr. Swift on that occasion have found their way into the memorandum; doubtless owing to the misunderstanding on the part of the Interpreter of the language actually used by Mr. Swift.

As to the words purporting to have been used by His Excellency Viscount Aoki, Mr. Swift has no doubt that they are accurately set forth in the Precis made at the Foreign Office, and where the two differ will, of course

course, accept the statement of His Excellency as correct.

In several places the Precis of His Excellency Viscount Aoki records Mr. Swift as expressing an opinion as to what his Government would think of the action taken by the Government of Japan in the construction now Placed upon the Treaties and especially that the United States Government would think that the Japanese Government "Had imposed upon its friendship".

Mr. Swift at no time ventured to express or intimate an opinion as to what his Government would think of the matter, nor as to the impression Mr. Swift's report of the treaty construction would create at Washington. Mr. Swift expressed a fear that more or less of his countrymen, especially those engaged in commerce with Japan, would think that the Japanese Government had selected the United States for the initiation of a new and unexpected construction of the treaties and would feel aggrieved with consequent results.

The following language attributed to Mr. Swift in His Excellency Viscount Aoki's Precis leads him to think that he was not understood by the Interpreter as it is certainly inaccurate, namely:

"Mr. Swift based his objection upon the fact that the "claim was violative of the treaty. He should, he declar "ed, report the matter to his Government and inform them "that Japan had violated her treaty. He thought it un "fortunate that in her endeavor to get rid of her treaties

"Japan should should select the United States - a Power "that had invariably manifested its friendly feeling for "Japan - upon which to begin the experiment".

All of this being immaterial to the main point Mr. Swift would not consider it of sufficient importance to call for correction, but for the general tone of disrespect to the Japanese Government which the language imports, a disrespect Mr. Swift is very far from feeling and which would under the circumstances, have been improper for him to express, if he had entertained such feelings.

The same inexactness occurs in attributing another speech to Mr. Swift, namely, as follows:

"Mr. Swift thought the Japanese Government knew exactly "what they were attempting to accomplish. He repeated "that Japan was violating her treaties and he again de- "clared that he was of the opinion that she was doing "so in order to get rid of her engagements".

Mr. Swift disclaims the use of these expressions or of any thing capable of such a meaning.

He did give it as his opinion that the excise duty upon "Scott's Emulsion" was in violation of the Treaty and that the ruling of Viscount Aoki in his note No. 4 of January 17th, extending the ruling to all American productions, if put into force would lead to further violations of it . he also said that His Excellency Viscount Aoki's ruling was a new and unexpected construction placed upon the Treaties and that he regretted

that

that an article of American production had been chosen upon which to make the initial application of the new doctrine, giving for his regret the reasons above named.

He did not at any time "declare that he would report "to his Government that Japan had violated her Treaty": nor did he intimate that his intention to report the facts of the case to his Government was the result of any thing other than the regular and ordinary discharge of his duties in reporting this in common with all other transactions of his Legation. He did not at any time use any such expression as that "the Japanese Government knew exactly what they were attempting to accomplish" nor "that Japan was endeavoring to get rid of her trea- "ties" or was "violating them in order to get rid of her "engagements".

Mr. Swift said nothing tending to inpugn the motives or question the sincerity or integrity of H.I.M's Government in the construction of the Treaty. What he did say was that, in his opinion, the construction was a new, that it was a reversal of a construction long acquiesced in, and that he, Mr. Swift, thought it to be violative of the language and intent of the Treaty; but he did not, either expressly or by implication, suggest that the Japanese Government thought it to be a violation of the Treaty.

It is true that Mr. Swift declind to discuss the question of treaty construction, but he gave as a reason for refusing that until he could ascertain the views

of

of his Government, he did not feel at liberty so to do. Mr. Swift did not pretend to know what his Government would think. In fact at the outset of the interview, he announced that he wished to inquire as to the exact position of the Japanese Government in order that he might, as it was his duty to do, correctly report that position to his own Government.

From the Precis of His Excellency Viscount Aoki, it appears that he suggested to Mr. Swift, that it was apparent that they had reached a point in the discussion where they could no longer agree and that, in future, arguments be reduced to writing &c.

Mr. swift has no doubt that Viscount Aoki used precisely that language, though he, Mr. swift, does not remember to have had it translated to him, or, to have understood it.

He will, however, cheerfully follow the suggestion; and should further discussion be found necessary, which he can only determin after hearing from his Government, he will follow that plan so far as it can conveniently be done.

Legation of the United States,

Tokio, February 10, 1890.

DEPARTMENT OF STATE
MAR 17 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAR 20 1890

No. 92. Legation of the United States.

Tokio Japan, Feby 17, 1890.

Rec'd 20 Mar

Mr. Swift;

To the Secretary of State.

Subject:

Mr Gubbins's Memorandum on the right of Japan to levy internal taxes on goods imported from foreign countries.

No. 92. Legation of the United States.
Tokio Japan, Feby 17, 1890.

Hon. James G. Blaine.
Secretary of State.
Washington D.C.

Sir.

In course of the inquiry recently made by me as to the construction heretofore placed upon the Treaties between Japan and the other Powers in the matter of the License and excise tax upon "Scott's Emulsion", I permitted Mr. Dun to submit the letter of Viscount Aoki, dated January 17th, 1890, to Mr. J. H. Gubbins, Japanese Secretary to the British Legation at Tokio,

and

and to ask for his views.
The result was that a confidential paper was prepared by that gentleman and returned to Mr. Dun for my use. It did not reach me, however, until after I had prepared my own statement of the case and brief summing up of points in my dispatch No. 9 bis dated the 16th instant.

At the request of Mr Dun Mr Gubbins has consented that a copy of the paper may be forwarded for your information, which I now have the honor to enclose herewith.

It is proper to mention the fact that Mr Gubbins has been connected officially with H. B. M's. Legation

Legation at Tokio as Interpreter and Translator for many years, and is looked upon as a gentleman of the highest character and abilities. He was one of the Secretaries of the Treaty Conference held at Tokio in 1886 and 1887. He is an authority upon the Japanese language, both spoken and written. He is the Author of several works on Japan, amongst which his last "A Dictionary of Chinese-Japanese Words in the Japanese Language", three volumes, Trubner & Co. London. 1889, - is just now passing through the press, the first volume having already appeared.

which

which will undoubtedly be a standard authority.

I beg to call your attention to the paper of Mr Gubbins and especially as to what he says as to the original Japanese-Chinese text both of the various treaties, and also of the ordinances under which the licenses and excise are being levied. It seems from Mr. Gubbins translations, that, as the Japanese law now stands, the Excise does not extend properly to "Scotts Emulsion" nor indeed to any medicine except such as is prepared in Japan.

Inasmuch however as Vis count Aoki distinctly claims the right to levy Excise taxes ad-libitum

ad-libitum upon all American goods in spite of the Treaties, the mere circumstance that the existing ordinances do not authorize the Exaction is not very important, since the Enactment of any Law in Japan being a mere act of the Executive, the omission can always be supplied, even retroactively if necessary, at very short notice. In truth the Law here at best is largely in the will of the authorities and, presumably, can be — Easily made to fit any case.

I have the honor to be

Sir,

Your

Your obedient servant

Robert T. Lincoln

Enclosure.

Mr. Gabbins Memorandum, Copy.

Enclosure with Mr Swift's No. 92.

Copy.

(Private)

Communicated privately and confidentially to the secretary of the United States Legation

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MEMORANDUM.

A question having arisen as to the action taken by the Japanese Local Authorities in Osaka and Tokio in regard to the sale by Japanese subjects of an American patent medicine called "Scott's Emulsion", the Japanese Minister for Foreign Affairs has upheld the action of the Authorities concerned on the two grounds

1. that the said Authorities have the right to take such action under the Regulations respecting prepared medicines, * and

2. That article IV of the Treaty between Japan and the United States refers only to taxes levied in respect of transportation and not to other internal taxation.

And the Foreign Minister has further declared that his Government

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* That the question ever arose is probably due to the ill considered action of the Finance Department. It may therefore be regarded as one of the many instances where the hasty and arbitrary action of one of the Departments of State has compromised the Governemnt who, if they had been consulted, would very probably never have authorized the action in question but the thing having been done, feel bound to support it.

Government are entitled to levy on any foreign goods imported from abroad any internal tax in respect to their sale, use or consumption in Japan which they may choose at any time to impose.

A word as to the action of the Japanese Authorities which has given rise to the present question. It implies two things which are distinct:-

a). The right of the Japanese Government in the exercise of the requisite sanitary control, to compel Japanese subjects to apply for an official license to sell a foreign prepared medicine; and,- which is a very different matter, -

b). the right of the same Government to levy on <u>foreign prepared medicines</u> the same taxes as are imposed on <u>Japanese prepared medicines</u>.

1. Now in regard to the first point upon which Viscount Aoki takes his stand, no mention whatever of foreign prepared

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1. The term <u>licensed medicine</u> as quoted by Viscount Aoki is not a correct translation. The regulations certainly provide for the obtaining of a license for the sale of every such medicine, but the term employed in the Japanese original is "<u>prepared medicines</u>" (as distinct, that is to say, from medicines compounded by apothecaries according to a medical prescription).

2. The exact extent of the Japanese contention is a point which rests in dispute, the statements on both sides being different. For the purpose of this memorandum the American statement has been adopted.

prepared medicines or foreign patent medicines[3] is made either in the Regulations of 1877 or in those of 1882. Both Regulations refer only (though not by express exclusion of other medicines) to medicines prepared for sale by Japanese subjects in Japan. It is difficult to to see, therefore, how the action of the Japanese Authorities in taxing a foreign prepared medicine can be justified by an appeal to Regulations which have no reference to the special article taxed. It is true that the Governor of Kanagawa Prefecture issued a Notification on the 8th, of January 1887 in which he advised Japanese subjects that if they wished to sell ~~medicines~~ "medicines prepared by foreigners" they must, whether such medicines were approved of or not by the Governments of the countries of manufacture , obtain a license in the same manner as Japanese subjects would in the case of Japanese prepared medicines, -and it is possible that similar notifications may

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3
No such thing as a Japanese Patent Medicine exists for by the Revised patent Regulations of the 18th, of December 1888 medicines and medical preparations are amongst the things expressly excluded from the privilege of being patented.

4.
By the Regulations of 1887 a fee of 20 sen is charged for a license (originally renewable every five years on on payment of the same fee but since 1886 permanent) to sell each prepared medicine, and a yearly tax of two yen is also levied on each. by the Regulations of 1882 all prepared medicines are subject to a stampduty of 10% ad-valorem. Retail dealers and pedlars are also required to pay local taxes in respect of prepared medicines.

may have been issued by the Governors of other Prefectures. But, apart from the fact that a provision of this kind would in the case of those foreign patent medicines, the composition of which is to a certain extent a trade secret, amounts to a virtual prohibition of their sale, (for the application for a license to sell must state the nature and proportion of each ingredient), - the right to issue this notification atall may fairly be disputed seeing that the Regulations which were the Governor's authority for so doing refer simply to medicines prepared in Japan by Japanese subjects. And even supposing that the authority on which the notification is based were such as to warrant its issue, which has been shown not to be the case, such action would still be open to question, for it is not sufficient in a matter where the commerce of a foreign power is concerned for a local functionary to issue an order to the Japanese subjects in his Prefecture. Such matters require to beddealt with openly by the Central Authorities, and Treaty Powers are clearly entitled to demend that the Japanese Government shall notify them in a formal and regular manner of any fiscal measure which directly or indirectly affects or may affect the consumption of any article of foreign merchandise. And the more clearly is the Japanese Government bound to proceed in this way when the particular commodity in question has, as in the present

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5. They are cited in the Governors Notification.

present instance, been exempt for many years from the taxation which it is now sought to impose.

On this ground therefore it is evident that His Excellency's contention cannot be maintained.

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2. - The second ground on which Viscount Aoki bases the right of his Government to impose the taxation in question is the wording of the 4th, article of the Treaty between Japan and the United States which reads: "all goods imported into Japan and which have paid the "duty fixed by this Treaty may be transported by the "Japanese into any part of the Empire without the pay-"ment of any tax, excise or transit duty whatever". It is contended by Viscount Aoki on the part of the Japanese Government that the interpretation of the taxes which Japan has bound herself by this Article not to levy on goods imported from abroad is governed by the words "may be transported;" that in other words this Article refers only to taxes connected with the transit of goods in the interior and not to duties other than transit dues, imposed upon goods before they come into the market, or, for the two things are the same, prior to their entering into consumption.

It must be admitted that the wording of this Article is clumsy and lends color to the contention of the Japanese Government. But it will be remembered that in the Conference of 1882 the Japanese Government proposed,

presumably

presumably on the ground that as all the Treaties between Japan and Western Powers had the same meaning and force, that the Austro-Hungarian Treaty, which is the latest, should be taken as the basis of negotiations. She cannot, therefore, object to reference being made to the corresponding Article of the Treaty. The English and accepted version of Article XII of the Austro-Hungarian Treaty though more explicit, is practically identical with Article IV of the Treaty Between Japan and the United States, for it says:-

"All goods imported by citizens of the Austro- Hungarian "Monarchy into the open ports of Japan on which "the duties stipulated by the present Treaty have been "paid, may whether they in the possession of Austro-"Hungarian citizens or Japanese subjects be transported "into any part of the Japanese Empire without the pay-"ment of any tax or transit duty whatever".

There are however two recognized rules for the interpretation of any document, namely:-

a). the natural meaning of the words;

b). the intention of the party whence the document emanated, or, in the case of a treaty, the intention of the minds of the negotiators.

a). There being in this case a dispute as to the natural meaning of the words it is not unreasonable to compare the Japanese and German versions of Article XII of the Austro-Hungarian Treaty with the original English.

And And

6. The literal interpretation of the German version of the Austro-Hungarian Treaty might land the Japanese Government in an awkward dilema (see version in question)

And this comparison shews a divergence sufficiently marked to justify a doubt being cast *a priori* on the limitations attached to the wording by the Minister for Foreign Affairs. The Japanese vesion says:-
"All goods imported by Austro-Hungarian subjects into "any of the open ports of Japan upon which the duty stip- "ulated by this Treaty have been paid may be transported "into any part of Japan by the owner whether he be an "Austro-Hungarian subject or a Japanese subject. *It is* "*understood that on such goods no taxes of any kind what-* "*ever, whether transit duties or taxes of another nature,* "*shall be levied*". The German version is equally explicit. It reads # # # "may be transported by the owners "into any part of the Empire without any tax or transit "duty *under any name whatever* being levied upon them".

These quotations if they cannot be accepted as absolute proof of the intention of the negotiators, suffice at least to shew that the wording of the treaties was evidently intended to cover a very wide, - if not the widest possible, - extent the imposition by the Japanese Government on foreign goods of any tax whatever which might be in the nature of a surcharge upon the duties paid to the Customs on such goods by the importers, and they justify the inference that the words *may be* transported are to be read in the wider sense attaching to the words *may be brought to market*.

If this argument is not convincing the question narrows itself to

b).

b). What was the intention in the minds of the negotiators.

In examining this point it is necessary to consider the circumstances under which the present treaties were concluded with Japan.

It is evident that the foreign negotiators of these treaties in so far as the question of internal dues is concerned worked entirely on the experience afforded by their treaties with China. And that while thinking that they were safeguarding adequately the interests of their nationals who might engage in trade with Japan, they had in view simply the barrier taxes of the sister country, - an attitude of mind which was justified by the condition of Japan at that time. These barrier taxes and the obstacles caused to the circulation and consumption of foreign goods in China were known to them and they framed their treaties with Japan accordingly. And it is not too much to say that the Japanese negotiators on their side understood, though perhaps only in a vague way, the idea underlying the provision in question, and that the wording used was intended by both parties to apply to the consumption as well as the mere transportation of goods. And if it be contended that when these treaties were negotiated the idea of Japan providing herself with a fiscal system on Western models which should include stamp duties on medicines and other commodities, did not occur to the foreign negotiators, the answer is simple:- neither was it in the minds of either of the parties

that

that the same treaties would be in force thirty years later. Those treaties are however still in force, and, however much the circumstances of Japan may have altered in the mean time, their provisions cannot be changed by any subsequent action of Japan alone. So long as they remain in force Treaty Powers have a right to demand their observance by Japan. Her progress of late years and the altered conditions which are the result of that progress may indeed serve as an argument for Treaty Revision but they cannot serve as an excuse for violating existing treaty obligations.

One point remains to be noticed. it may be said that every independent State has the right to regulate its internal dues in any way it likes, whether foreign or domestic productions are concerned; that this is a question beyond the province of treaties, and that foreign Powers have no right of intervention in such matters unless the action impugned be of a discriminatory nature, directed, that is to say unfairly, against the commodities of a particular country. There is however, abundant evidence to shew that no general principle of this kind governs international relations,[7] and that nations do commonly

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7.- In many treaties the question of the imposition of internal dues upon foreign commodities is not mentioned the action of the contracting parties in these cases being controled by a Most Favored Nation Clause. But againg many others contain special provisions regulating the imposition of such dues. Thus, to take only a few instances, our Treaty with Morocco provides for the imposition of certain specified internal taxes on exports from that country and at the same time prohibits the imposition of any internal dues on imported goods upon which the stipulated Customs dues have been paid; and and the question is dealt with elaborately in our treaties with Montenegro, Servia and Roumania.

commonly, or at least frequently, bind themselves in this respect as well as in others.

Were the Japanese Government to limit thenselves to the contention that it is necessary for them to exercise a careful supervision over the use of foreign patent medicines by its subjects in Japan, and that such supervision is only possible under a system of licenses, this argument could hardly fail to be admitted, for it is both reasonable and just. And they have availed themselves largely (and often in a vexatious degree) in the past of their undoubted right to prohibit what they consider delecterious drugs from entering into consumption in Japan. But when they pass from this position to the taxation of foreign medicines by methods which are obviously irregular, - when they base that right upon grounds which are unsupported either by Japanese law or by treaty, and claim its extention to all commodities imported from abroad, - it is clearly the duty of Treaty Powers to protest against the emunciation of a principle so wrong in its nature and in its extention so dangerous, and to insist upon their interpretation of the Treaties.

(Signed) J. H. GUBBINS.

8.- The Swedish Government goes so far as to prohibit altogether the importation of foreign patent medicines.

DEPARTMENT OF STATE
FEB 27 1890
RECEIVED.

S.S. Batavia, near Victoria B.C.
February 18th 1890.

From U.S. Legation to Japan

Jas. G. Blaine
Secretary of State
Washington.

Wm Cridler

File
Swift adv.

DIPLOMATIC BUREAU
FEB 27 1890

I have the honor to inform you that I left to-day Vancouver B.C. on this Steamer for Yokohama, where I hope to arrive about the 4th proximo.

I respectfully call your attention to the request made in my letter dated Philadelphia, February 4th, in regard to informing Hon. Swift of my departure for Japan.

I have the honor to be,

Sir,

Your obedient servant

Willis R. Whitney
Interpreter of Legation
Tokyo Japan.

DEPARTMENT OF STATE
MAR 17 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAR 19 1890

No. 93.

20 near

Legation of the United States.
Tokio Japan. Feby 21. 1890.

2D ASSISTANT SECRETARY.
Ack by subject, awaiting further information.
MAR 18 1890

Mr. Swift
To the Secretary of State.

Subject:
New project formulated by Japan for the revision of her Treaties with Western Powers.

No. 93.

Legation of the United States.
Tokio Japan, Feby 21, 1890.

Hon. James G. Blaine.
Secretary of State.
Washington D.C.

Sir:

I have the honor to inform you that I am now in possession of information which leads me to believe that H.I.J. Mis Government have agreed upon and formulated the basis of their demands upon Western Powers for the revision of existing Treaties.

I have not however, seen a copy of the paper and will not venture to give upon its

Contents

contents from hearsay. It may however be depended upon that the claims made by Japan for the extinguishment of Consular Jurisdiction will be considerably in advance of the position taken by Count Okuma as set forth in the Treaty concluded with Mr Hubbard, February 20, 1889. There will be no foreign Judges nor any substitute for them. The Courts will be Japanese. There will also be considerable departure from that Treaty in the way of diminished concessions to foreigners in the matter of property and probably trading privileges, if not others, important in character.

I

I find that the project has been mentioned verbally to the Representatives of such of the leading Powers of Europe as did not sign treaties last year. That the programme of negotiation as now agreed upon is to approach those States which signed treaties last year, namely: the United States, Germany and Russia, until after treaties shall have been concluded with those Powers that did not sign, or at least the principal ones, notably Great Britain. That while the Ministers of France, Italy, and Austria-Hungary will probably be spoken with and the plan at once submitted

submitted to them, the main
Effort of H. M. J. this Government
will be directed to bringing about
an agreement with Great Britain
which once accomplished, France
Italy and the other Powers, that
have no revised treaty awaiting
ratification, will be taken in
hand and the business pressed
in like manner to a successful
conclusion. This result achieved
and not until it is achieved, the
attention of the Government will be
turned to the United States, Germany
and Russia and all brought
into line upon the principles
of the Treaty with Great Britain.

I have been told by a gentleman
usually well informed and

in

in whose truthfulness I have confidence that the Powers with already signed and pending treaties, namely, the United States, Germany and Russia, will not be notified of what is going on nor even be furnished with copies of the project until the proper time is reached to open negotiations with them. That the last above named Countries having consented to wait and permit Japan to prosecute her negotiations with other Powers they would be held to their word and would not be considered as interested in the present proceedings but would simply be allowed to wait as they had agreed to

do

do. Although having the most implicit confidence in the sincerity of my informant; this latter statement is so improbable that I have no hesitancy in disbelieving the accuracy of his information as to the intention of H.I.J. M's Government not to notify the United States of what is taking place and to furnish her with a copy of the project. While it would doubtless be perfectly just, as well as satisfactory to the United States to consent that Japan shall proceed in her own way to obtain the modification of her Treaties, yet in view of the fact that we were the first to

to sign a treaty, it seems to me that good faith requires that we should be informed of any changes that are being made in the Treaties with other Powers and even that we should have the very earliest information of such changes. This I have no doubt will be done in due time. Although I have received no notice of what will be done I fully expect to receive a copy within a few days. I hear that the project is now being printed and beyond doubt we shall be furnished with a copy as soon as this is done. I will, of course, forward it to you by the first opportunity after receiving

receiving it: That after furnish-
-ing a copy of the paper to this
Legation the negotiations with
other Powers, commencing with
Great Britain, will be entered
upon and prosecuted without
further notification or consultation
with the United States, seems
to me, as matters now stand,
altogether probable.

I have the honor to be
Sir,
Your obedient servant,
John F. Swift

Refer to no file

DEPARTMENT OF STATE
MAR 17 1890
RECEIVED.

DIPLOMATIC BUREAU
MAR 17 1890

Miscellaneous

No. 94

Legation of the United States.
Tokio Japan. Feby 21. 1890.

Mr Swift.
To the Secretary of State.

Subject.
Receipt of instructions

No. 94.

Legation of the United States.
Tokio Japan. Feby 21. 1890

Hon James G. Blaine
Secretary of State
Washington D.C.

Sir:

I have the honor to acknowledge the receipt of your instructions numbered respectively from 34, to 47, both inclusive, and of circular instructions dated respectively Oct. 25, and December 18, 1889

I have the honor to be
Sir,
Your obedient servant;
John F. Swift

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

DIPLOMATIC BUREAU.
APR 1 1890.

Mr Cridler

Legation of the United States.
Tokio Japan, February 24. 1890.

Mr. Dun.

To the Secretary of State

Subject.

Receipt of Commission dated, Dec 20, 1889.

Legation of the United States,
Tokio Japan, Feby. 24. 1890.

Hon. James G. Blaine,
Secretary of State
Washington D.C.

Sir.

I have the honor to acknowledge the receipt of your instruction dated January 9. 1890, enclosing my Commission, issued by the President under date of December 20, 1889, appointing me to be Secretary of the Legation of the United States of America to Japan, and I beg leave to acquaint you that I gratefully accept the same and that I have qualified by taking the oath prescribed by law and

have

have entered upon the duties of my office under said Commission.

I have the honor to be

Sir,

Your obedient servant,

Edwin Dun

Secretary of Legation.

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

DIPLOMATIC

Mr Crider

APR 1 1890

Ack'd by mail

Legation of the United States.
Tokio, Japan, Feby. 24, 1890.

Mr. Gardiner
To the Secretary of State.

Subject:
Receipt of Commission dated
December 30th., 1889.

Legation of the United States,
Tokio, Japan, Feby. 24, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D. C.

Sir:

I have the honor to acknowledge the receipt of your instruction dated January 9th., 1890, enclosing my commission issued by the President under date of December 20th. 1889, appointing me to be Second Secretary of Legation of the United States of America to Japan and beg leave to acquaint you that I gratefully accept the same and that I have qualified by taking the oath as prescribed by law and have entered

entered upon the duties of my
office under said Commission.

I have the honor to be,

Sir,

Your obedient servant,

W. R. Gardiner Jr.,

Second Secretary of Legation.

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

DIPLOMATIC BUREAU.
APR 8 1890

Mr. Cridler

No. 95.

Legation of the United States.

Tokio, Japan, Feby. 27, 1890.

2D ASSISTANT SECRETARY.
Ask by subject as "deserving attention."
APR 8 1890

Mr. Swift
To the Secretary of State.

Subject:
Article from the Japan Daily Gazette regarding practice of Japanese Criminal Courts.

No. 93. Legation of the United States.
Tokio, Japan, Feby. 27, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to transmit herewith, for your perusal, an editorial article clipped from the Japan Daily Gazette of the 26th. instant, commenting upon the practice of the Criminal Courts in Japan under the new and westernized codes. You will doubtless remember that in former dispatches I have had something to say upon the same subject.

I

I do not wish to be understood as either endorsing or disputing what is said in the Gazette, but submit it to you with the statement that the journal is a respectable one conducted by British subjects, and published at Yokohama.

I am, however, reminded on reading this article that on the occasion when this Legation was entered and robbed by a burglar, in the night time in July last, no prosecution was made nor asked for on my part nor was any witness, deposition or testimony of any kind called for from the Legation, or taken, as to ownership of articles stolen

or

or for any purpose whatever.
All we knew about the matter
was that the articles were brought
here by an officer who stated —
that the burglar had been
arrested with them in his pos-
- session. We heard nothing —
more about the affair till long
afterwards when, on enquiry made
at the police office, we were told
that the man had been tried and
condemned to sixty days im-
- prisonment. That this must
have been upon confession goes
without saying, but how the —
confession was obtained I have
no means of knowing.

I also have the honor to —
inclose herewith a translated
article

article upon the same subject taken from a late number of the Jiji Shimpo, a vernacular journal of the highest character.

The Jiji seems to think the increase of a certain class of offenses is due to the sudden change of the laws defining them, by which the people do not always at once know what acts are prohibited.

Referring to my dispatch No. 55, of date Oct. 17th., 1879, I feel compelled to say that in this latter article I find more or less tending to confirm me in the notion that in the abrupt change from more severe to milder methods of punishment, not wholly suited to

to the habits and conditions of the people, the Japanese legislators have approached dangerously near to a point where prevention does not prevent and where punishment may almost be paid not to punish.

I have also clipped from the Gazette of the 27th. of February, and inclose herewith, a communication purporting to give the particulars of a case where a suspected man was compelled by the police to confess a crime by whipping, starving, etc. As the article is anonymous and does not pretend to give real names, it ordinarily would not be entitled to any consideration. But it appears

appears in the columns of a respectable journal the editor of which may be presumed to have placed more or less credence in the correspondent and probably knowing him to be at least of ordinary repute. It is also true that several days have passed and no denial has appeared so far as I can learn, from any quarter. Indeed no attention seems to have been given to the article, it being treated apparently as rather a matter of course. In fact, whether justly or not, there exists here a general belief that the police have extraordinary control over the native population in all directions and that in the detection

of

of crime and conviction, if not punishment, of criminals, they exercise very great power, going to lengths that, to say the least, are unusual in England and the United States.

In view of the fact that Japan is demanding that all foreigners submit themselves to the laws and courts of the country, I consider these excerpts from respectable newspapers as worthy of your attention, giving them for what they are worth.

You will observe that all the articles are pointed at the operation of the criminal code. But it must not be forgotten that no civil codes have yet been adopted.

Yr

It is true that my distinguished predecessor, Mr. Stubbard, in his dispatch to Mr. Bayard, No. 531, dated Feby. 20th., 1889, in marshalling the reasons in support of the Treaty of that date practically putting American citizens under Japanese laws, informs the Department that "their (the Japanese) codes of laws, civil "and criminal, are founded in just "systems and largely taken from "the West, and their bench and "bar are rapidly becoming learned "judges and able advocates." If by this use of the word codes as applied to any portion of the existing laws of Japan, except that relating to crimes and punishment

or

or to that of civil procedure, he intended to convey the idea that the great body of Japanese laws has been materially changed since the opening of the country to foreign intercourse or that it is anywhere printed or published, I am forced to the conclusion that Mr. Stubbard wrote his dispatch under a mis-apprehension of fact. I do not, however, dispute the statement that the civil laws of Japan are "just systems," or that they are "largely taken from the West." I only say that inasmuch as they are not in print either in Japanese or English, I have no means of forming an opinion of them, their justice or origin as a system.

That

That they are in themselves just, and when properly administered are satisfactory to the native people of Japan, I have no reason to question. They could hardly have lived under them so long were they otherwise.

I have the honor to be

Sir,

Your obedient servant,

James T. Hepburn

Enclosures: Articles from the Japan Gazette (2), and from the Jiji Shimpo, as above.

Enclosure with No. 95.

The Japan Daily Herald.

FRIDAY, 28TH FEBRUARY, 1890.

FROM the *Jiji Shimpo* :—

THE distance between the rich and poor in this country is not so perceptible as is the case in other countries, and education may be said to have extended generally, but there is one thing which causes us to feel considerable misgiving, and that is the large number of offenders in this country. The mildness and gentleness of the Japanese people as a whole are proverbial, yet when we come to consider the large number of offenders as compared with other countries the thought is not at all pleasant. There are probably several causes for this, but one may be the radical changes which have been introduced by the state. The Government did not make laws as necessity required, but drafted them first, and then endeavored to educate the people up to its principles. As the Government at that time wished to become a civilized nation all at once, without going through the transitory stages, they established the laws of civilized nations and put them into practice. On the other hand the common people have not the sense nor knowledge to obey these laws, and may in some cases have infringed them unintentionally as they knew nothing of the modern laws under which they lived. They may have acted in violation of the stamp duty regulations or tobacco tax regulations without being aware of it. Anyhow it is quite manifest that the number of offenders has increased in consequence of the complexity of the laws on the one side and the inattention of the people on the other. In addition to this, the police authorities do not seem to know what it is to temper justice with mercy, but decide on everything in accordance with the strict reading of the law without any regard to circumstances, their chief aim being the conviction of offenders, no notice being taken of the importance or otherwise of the cases brought under their cognizance. In consequence of this, it was even rumoured, after the promulgation of the Penal Code in 1881, that the laws were made sport of, because offenders were placed in custody daily so that their number showed an abrormal increase in a very short time. This must have been due to no consideration being given to circumstances although all the offenders were arrested and punished according to law. For instance, a person was punished as a thief for having stolen two or three potatoes from the farm of another, and even for picking up fallen leaves from Government woods. However, instructions were given by the authorities to the local governors to make the operation of the law as mild as possible. The condition of society having become changed, and the conduct of the police having become milder, the number of offenders decreased, but fear is being entertained that the number of offenders will again increase when the codified laws are promulgated, as both the government and people will be unused to them.

Enclosure with No. 95.

The Japan Gazette.

YOKOHAMA, 27TH FEBRUARY, 1890.

CORRESPONDENCE.

☞ *Correspondents have free access to these columns, but we distinctly disclaim any identity with their sentiments and opinions on the matters treated.*

A SAMPLE OF JAPANESE JUSTICE (?).

To the Editor of the *Japan Gazette.*

Sir,—Some facts, which bear strongly on Treaty Revision and the so much vaunted advance of the Japanese towards western civilization, have within the last few days come to my knowledge. I forbear to comment on the same, leaving that to your readers, and to those who desire to be placed under Japanese law and government.

Some few days back a person in, say Totska, had to pay a sum of money, some $500, to another person in Yokohama, and sent the money by the hand of a Kozo, a lad of some 15 years. Before the lad arrived at his destination he was accosted on the train by a man wearing a particular kind of coat, who said he need not proceed to Yokohama, that he had come for the money. Upon this the lad gave up the money and, requiring a receipt with the recipient's seal, the receiver of the money said that he had forgotten his seal but that it was all right, upon which the boy returned to his master. The latter, suspecting that it was all wrong, communicated with the police and they arrested a person on the same train wearing a similar coat to that worn by the illegal receiver of the money. So far the police acted with commendable zeal, but the sequel to this story recalls to us the days of torture and cruelty to extract a confession. The man arrested, on being accused denied his guilt and then was mercilessly flogged by the Police, then starved for two days and again flogged, until, as he himself said, rather than die in that way he confessed to the crime. Then, when asked what he had done with the money, he said he had left it at an aunt's house. I need not proceed with the story, and do not wish to pass any opinion as to the guilt or not of the man. He may or may not have been guilty—but may I ask, of what value is such confession drawn out by savage cruelty and torture—and if the Japanese Police are permitted to practice in this way on those who may happen to fall in their clutches, whether guilty or not, and, as in the above case, only on circumstantial evidence, do those who desire to be placed under Japanese jurisdiction expect other treatment because they happen to be foreigners and aliens?

VERITAS.

Yokohama, February 27th, 1890.

Enclosed with No 95.

The Japan Gazette.

YOKOHAMA, 26TH FEBRUARY, 1890.

ADMINISTRATION OF CRIMINAL LAW IN JAPAN.

MUCH capital has at various times been made out of the fact of the promulgation and introduction into the Criminal Courts in Japan of a new and humane Code of Criminal Law, based upon the latest and most approved European ideas; and it has been the *role* of certain among the paid *claqueurs* to constantly harp upon this single string, and allude to it as a work which has been completely finished, and may be put away and disposed of. It may not be out of place after the lapse of time since the new code came into operation, to consider if there are good reasons for taking such an optimistic view of the state of the Criminal Law in Japan, and to enquire if perhaps there may be a reverse side to the picture, which does not present such satisfactory aspects as its thick-and-thin advocates would have the outside world believe. It was stated in a recent issue of the *Jiji Shimpo* that the Kajibashi jail is filled to overflowing with prisoners awaiting their trial, the greater number of whom were charged with gambling or theft, and it had been found necessary to enlarge the accommodation. Without pausing to comment upon the large proportion which about a thousand untried prisoners bears to the population of Tokio-fu, we may enquire why there has been so much evident delay in disposing of their cases? Among such a number of charges of gambling, and presumably a fair proportion of petty theft, there must be many which are subject to summary jurisdiction, and capable of being promptly disposed of; and here we fear is to be found the secret of the law's delay, and the consequent accumulation of untried prisoners. The hands are Esau's hands, but the voice is the voice of Jacob. The new Code has been promulgated, but the old methods have not been amended; new wine has been put into old bottles and they are in danger of bursting; the judges cannot get out of the old groove, and the new procedure which should accompany the new Code will not march under the hands of the administrators who are shackled in the bonds and traditions of centuries.

This view is confirmed by the experience of any foreigner who has had to prosecute a case in a criminal court, in connection with which the most unaccountable delay has always occurred, even in the simplest cases. What the procedure is it is difficult to say, for of the usual procedure as understood by foreigners there appears to be none. A foreigner having a charge against a native is usually requested by the Police to put it in writing, and having done so, he naturally expects on an early day to be called upon to appear with his witnesses to prosecute the offender; but as rule he hears nothing more about it for perhaps several months; and finally, after an interval of more or less considerable length, he hears in some casual way, or perhaps by enquiry, that the culprit has been sentenced to six months imprisonment. Now in the absence of both prosecutor and witnesses how has this been arrived at? The only inference to be drawn from this is, that the old method of requiring a confession of guilt is still pursued, and the persons charged with offences are brought up and remanded over and over again until they confess their crime. If this is the case, as we strongly suspect it to be, it is easy to imagine how it comes about that the jails are crowded with untried prisoners.

The next question which presents itself is, why we rarely or almost never see law and police cases reported in the Japanese press? The courts are supposed to be open to reporters and the public, and we believe, nominally at least, they are so; but is it possible that visitors are made to feel their presence is deemed unwelcome, and so the advantages of public criticism are lost? Or is it that in consequence of the wearying course of procedure to which we have alluded, and the interminable length of even petty cases, it is futile to attempt a consecutive and intelligible report of any ordinary case? In any case there is a fault somewhere, and until a new era dawns upon the method of procedure in the Japanese courts of Justice, and the practice is made to conform with the spirit of the Code, it will continue to be a mere stalking horse, and will wholly fail to command the confidence of foreign people.

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

DIPLOMATIC BUREAU
APR 8 1890

No. 96.

2D ASSISTANT SECRETARY.
Ack. by Number and File.
APR 8 1890

Legation of the United States.
Tokio, Japan, Feby. 25, 1890.

Mr. Swift
To the Secretary of State.

Subject:
Japanese Press Articles
Laudatory of Viscount Aoki's
Ruling in the "Scott's Emulsion"
Case.

No. 96. Legation of the United States.
Tokio, Japan, Dby. 26, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D. C.

Sir:

I have the honor to transmit herewith an article translated from the Hochi Shimbun, a Japanese journal of the highest standing and respectability, and published in the Japan Herald, from which I have taken it. You will observe that it very plainly refers to the action of the Japanese Government in imposing an excise tax upon the article of American production known as "Scott's Emulsion," and

to

to what is evidently thought to be the admirable inflexibility of H. E. Viscount Aoki in persisting in exacting the tax after the representative of the United States had called his attention to the transaction and claimed it to be, on the part of Japan, a violation of the treaty between the two countries.

I regard the article as significant of the attitude of the Government — the press and the people — with respect to the foreign relations of Japan at this time and, for that reason only, worthy of your attention. The facts of the 'Scott's Emulsion' case have apparently

apparently been furnished to the Hochi Shimbun by some one having knowledge of the secrets of the Foreign Office. The tone of the article is friendly to the present Government of Japan and intended to serve it. The publisher is evidently of the opinion that for the readers of his journal to know that H. E. Viscount Aoki is pursuing an "inflexible policy" in reference to foreign countries and will not yield a step, taking the letter of the treaties as his guide will add to the popularity of that Minister and strengthen the Government of which he is a member, and is manifestly for the purpose of producing it.

producing that result that the facts of the controversy with the United States are given in its columns. It is not unlikely that the case was given to the Yoshi Shimbun with that view. Such things are not unusual in the United States.

That the effect of the article is to add to the popularity of the Government as well as of the Minister making the ruling unfavorable to the importers of "Scott's Emulsion" is, in my opinion, indisputable. It is manifest to me that for a Minister or Cabinet to be suspected of an inclination to yield to the influence of foreign powers at this time would make them

them specially unpopular and might be dangerous. On the other hand, a leaning against foreign powers manifested in any direction would give general public satisfaction.

The increased strictness of passport regulations as to foreigners passing beyond treaty limits, which is so manifest, accompanied as it is with harassing detentions and other vexations to tourists traveling over the country certainly has for its motive, among other things, a feeling on the part of the Government that the people approve of any measure, no matter how arbitrary, provided it asserts the supremacy of Japanese authority over foreigners.

Since

Since my attention was called to the article in the Asahi Shimbun, laudatory of Viscount Aoki, I find that the incident is going the rounds of the native press, always with commendation, and in fact is attracting general attention and approval.

The Tokio Shimpo, a paper which opposed the treaty plans of Count Okuma because of too great concessions to foreigners, has published an equally laudatory article upon the conduct of Viscount Aoki, in which occurs the following: "We approved from the very outset that part of Count Okuma's policy which was directed towards the putting into

2.

"into operation of the strict —
"construction of the treaties, and which
"we called 'the inflexible policy;' —
"though we did oppose his treaties as
"he finally drafted them. Vis Count
"Aoki has not changed the policy
"we so much approved of, but has
"imposed a tax on a medicine
"coming from the United States, in
"spite of the objections of the —
"American Minister."

You will observe that there appears in none of the articles the slightest disposition to inquire what the language of the treaties may be with respect to the article taxed, whether the ruling of Vis Count Aoki is in accordance with either the treaty or its long established

established interpretation. What the native journals see and ~ admire is the fact that the Government has pursued an "inflexible policy" and has acted in spite of the objections of a foreign Minister.

The satisfaction with which the ruling with respect to "Scotts Emulsion" has been received will, in my opinion, greatly ~ strengthen any latent disposition on the part of the Government to increase its revenue by ~ additional internal or excise taxation upon American productions.

If the United States should acquiesce in the recent decision as to the tax on "Scotts Emulsion;

we

we may reasonably expect the ruling will be extended to other articles imported by our merchants at no very distant period.

I have the honor to be,

Sir,

Your obedient servant.

James T. Swift

Enclosures:

Articles from the Hochi Shimbun and the Tokio Shimpo, as above.

Enclosure with No. 96.

The Japan Daily Herald.

TUESDAY, 25TH FEBRUARY, 1890.

FROM the *Hochi Shimbun* :—

WE hear that Viscount Aoki is also pursuing an inflexible policy in reference to foreign countries, and will not yield a step, taking the letter of the treaties as his guide. This is proved by a case which occurred a short time ago. A patent medicine which was imported from the United States was sold by some Japanese druggists with no stamp upon it in violation of the Patent Medicines' Regulations. This was discovered by an officer who reported the matter and got the men punished under the provisions of the Regulations. Some of the druggists may have secretly informed the American Legation, or the latter may have heard of the case; anyhow, the fact remains that the Foreign Office was communicated with by the U. S. Legation to the effect that if a stamp duty be imposed upon medicine which has already paid duty at the customs, it would be similar to paying tax twice over, which will not only cause purchasers considerable distress but will be detrimental to importers, therefore the stamp duty on it should be cancelled. The Foreign Office replied that no concession could be made in view of the Patent Medicines Regulations. The American Minister then wrote another letter saying that if a stamp duty be imposed on medicine which has already paid customs duty, the fact would be communicated to the home governmment. When an answer to the same is received further steps would be taken in the matter. The Minister for Foreign Affairs replied that if he wanted to report the case home he could do so, but that so far as he was concerned he could do nothing more than stick to the provisions of the Regulations.

Enclosure with No. 96.

The Japan Daily Herald.

SATURDAY, 1st MARCH, 1890.

THE *Tokyo Shimpo*, in an article written a few days ago, advocates that an inflexible policy should be pursued towards the Foreign Press. The paper continuing says: We approved from the very outset the policy pursued by Count OKUMA on his appointment as Minister for Foreign Affairs, which was that of putting into operation the strict reading of the provisions of the treaties, and which we called the inflexible policy, although we attacked the draft as proposed by him. Viscount AOKI, his successor, has not changed the policy which was pursued by his predecessor, and has imposed a tax upon a patent medicine imported from the United States in spite of the objections of the American Minister. We desire to see this policy pursued against the foreign Press in Yokohama also. We once gave translations of extracts from foreign papers published in Yokohama and were punished for a violation of the Press Regulations. Feeling doubtful as to whether there were any means of getting the foreign papers which are detrimental to public tranquillity and order controlled, we wondered why there were no means of repressing them. Why did Count OKUMA, the originator of the inflexible policy, look upon them with indifference? Why were the papers published in Japanese in San Francisco prohibited from being distributed in Japan? Since then, in reading the papers published in Yokohama and in foreign countries, we come across many articles written in a rude and violent manner against the Japanese people, our policy and our Government. Even when we are desirous of contradicting these statesments we do not do so for fear we should in some way or other contravene the Newspaper Regulations, in translating certain clauses with which we do not agree. It is a very strange anomaly that foreign papers which have articles and statements detrimental to the peace and order of the country should be allowed to be publicly read without being liable to contradiction, refutation or rebuke. We contend that those who are in the position of putting our laws into operation are responsible for this, and we must principally blame the Ministers of Home and Foreign Affairs for it. Of course they can say that what is a crime if done by Japanese, must go unquestioned if committed by foreigners, as it is done in places which are not under our jurisdiction such as in foreign countries or in places where there are Consular courts; but we cannot think it anything but partiality if such things are permitted in places where our laws are in operation, and it is much more so when such things are done in places where extra-territoriality is only tolerated. The laws of a country are generally admitted, by diplomatic courtesy, to be the fundamental law, even in places where extra-territorial laws are in existence, if it should be necessary to put them into force for the maintenance of the tranquillity or peace of a country. We are unable to understand why the Minister of Home Affairs allows such rude and discourteous foreign papers to be distributed in the country, and also why the Minister for Foreign Affairs leaves the original unquestioned while punishing only the translators and copyists. It is beyond question that the liberty granted to the Press and speech should be respected, and it would be a proper policy to give as much and as extensive liberty in these as possible in our intercourse with foreign countries, but there is no country where unlimited liberty is given. We do not, however, advocate the establishment of laws limiting the liberty of speech and the Press, but we do need laws to prevent papers of this country from going into extremes, and they should be put into practice under our jurisprudence. If any one should violate our laws within our jurisdiction, we should punish him according to our laws, no matter whether he is a Japanese or a foreigner; nor need we make any distinction whether it is written in Japanese, English or any other language. Foreigners who have the privilege of being tried by their Consular Courts should be delivered to their Consuls, and a complaint lodged against them. If it is made clear at the trial that there is no precedent for their punishment under the laws of their country, they would, of course, be acquitted. But we submit that no person, not even a foreigner, should be left unquestioned when he violates our laws in our own jurisdiction. Now the rude and violent press of Yokohama and of foreign countries are allowed to freely circulate everywhere, while the Japanese papers are fettered, not being allowed to even translate extracts from them for the purpose of contradiction. Is this the way to maintain tranquillity and order? We desire harmony in our foreign intercourse, but wish at the same time that it should be associated with justice. We want only justice at their hands, and civilized powers who have any reason and sense will not be hurt at our remarks.

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAY 16 1890

File

No. 97.

Mr. Crider.

Legation of the United States.
Tokio Japan March 1. 1890

Mr. Swift:
To the Secretary of State.

Subject:
New proposals submitted to Great Britain and other Powers by Japan for a revision of existing treaties.

No. 97.

Legation of the United States.
Tokio Japan, March 1. 1870.

Hon. James G. Blaine
Secretary of State.
Washington D.C.

Sir.

I have just learned positively that the propositions forming the basis for treaty revision, according to the views of the present Government of H. I. J. M. have been finally agreed upon by the Emperor and Cabinet; and presented and distributed to the representatives of such Powers as it is intended to negotiate with at present.

The British Legation received their

Am. Legation Tokio
Dr. Minister May 29 1890

their copy yesterday and, though I have not been informed of the fact, there is no reason to doubt that the Ministers of such leading States as did not sign treaties with the Okuma Government, such as France, Italy and, perhaps others, have been treated in like manner. I have been told that it is not the present intention to send a copy to this Legation, nor are we to be taken into confidence until some progress is made with the negotiating Powers especially Great Britain.

I have not seen a copy of the paper but have no doubt that it will be found that I have already sufficiently outlined

into

its purport in former despatches.

I do not deem it advisable, at least for the present, to endeavor to obtain a copy in any way except through regular channels and officially.

The negotiation with Great Britain, on the new lines, may be said to have commenced. It will be, no doubt, pursued by Viscount Aoki, with earnestness and vigor, to a conclusion if possible.

The approaching meeting of the new Parliament, with many & grave possibilities in that direction, will be urged among other things as a pressing reason for early and prompt

compliance

compliance with the demands of Japan. What will be the final upshot of the movement it is difficult to foretell. But it is certainly safe to predict that whatever Great Britain does, the other European States will follow without much hesitation. That to abolish Consular jurisdiction and bring foreigners under Japanese laws and tribunals, either at this or at any time reasonably near at hand, say within a generation, will be accomplished with a certain amount of risk to foreigners settled in this country, I think is the opinion of nearly thoughtful and well informed men, resident in and familiar with Japan. I cannot help entertaining the belief

belief that, in many instances, Japanese statesmen themselves must have more or less anxiety as to the result. Whether the fear of possible danger or inconvenience to our people residing here, is sufficient to justify our refusing to comply with the wishes of Japan for a change is a question which I have constantly refrained from expressing an opinion upon, feeling that it is a matter for my Government to decide after such statements of facts as I am able to supply them with.

In any case I have not the slightest hesitation in

Expressing

Expressing the belief that if it is not safe to abolish Extra-territoriality now, that it is extremely improbable that it will be materially different in any such limited time, as five years hence; and that if this serious step is to be taken within such limited time, then, for any thing I can see, it may as well be done now, and the Experiment commenced at once. If it has become manifest that the change is likely to be made at an early day, say within the next five years, there are obvious reasons why the great commercial States of Europe will be inclined to hasten the period in order to utilize the

Expeditingly

exceedingly favorable opportunity
afforded them, for trade advantages
in the very one sided and artificial
tariff schedule, which is part of
the Treaty signed last year,
and which is likely to survive
all changes.

By that, the big end of the
revenue is put upon sugar, which
comes from China, and kerosene
oil from the United States leaving
the manufacturer of Europe
with the minimum of fiscal
burdens to bear, and relieved
of all likelihood of any threatened
incidental protection to Japanese
manufactures.

For this reason I would not
be surprised to find that
the

the present effort to revise the Treaties by practically abolishing Extra-territoriality proving successful through, and under the leadership of Great-Britain. To say that Great-Britain would for the sake of any mere commercial advantage, no matter how important, subject her subjects to a known and admitted peril of a serious nature, would of course be absurd, and I, by no means, wish to be so understood. But it is impossible to know in advance what would be the result of abolishing Extra-territoriality in Japan. It can only be a matter of conjecture at the best. Very intelligent men are to be found holding widely different opinions

opinions about it. Such being the case I am unable to ascribe the influence a commercial advantage might have upon the Government of Great Britain, as an equivalent for giving up Consular jurisdiction.

The history of the tariff schedule may be briefly stated as follows.

It was prepared by a committee constituted for that purpose by the Treaty Conference of 1886-7. Sir Francis Plunkett, Minister of Great Britain was Chairman and Mr Stubbard, Minister of the United States, was a member. Owing to illness Mr Stubbard was unable to

give

give his attendance to the sessions of the committee but his adhesion was, I believe, finally given to the result reported. But whether he agreed to the work of the Committee at the time or not, it is certain that in signing the Treaty of February 20, 1889 and urging its adoption upon the Administration, he finally adopted and made it his own. If I am not misinformed, the actual work of constructing the Schedule was done by the Chairman of the Committee, Sir Francis Plunkett, at the British Legation. That it is rendered as agreeable to British interests as possible, if any change in the old 5% ad-valorem rate

rate was to be made at all,
will, I think, be shown by the
slightest examination of the
principles.

When it is borne in mind
that kerosene oil, an article
of prime necessity, not produced
in Japan and the chief import
from the United States, is loaded
with a specific duty equal
to 16 per cent ad valorem, while
cotton yarn, grey shirtings
and other cotton cloths, capable
of bearing a high duty, that
not only can, but, which, owing to cheap
native labor, the fact that raw
cotton is a Japanese product,
and other ~~co~~ equate reasons, might
Easily be produced in Japan.

but-

but which come almost exclusively from Great Britain, are only taxed about half as high, I think it must be confessed that in this favorable tariff there is a great temptation to the British Plenipotentiary to agree to any revised treaty whereby they can secure such Commercial advantages for a long time to come.

The low duty on the iron and steel products of the British islands when compared with the relatively high import tariff upon wheeled vehicles, leather and clocks and watches, coming mainly from the United States, are clear and distinct discriminations against American products

productions in the tariff as a great open in the Treaty of February 20, 1869.

I have already mentioned to you that this tariff schedule will be retained without question in the negotiations about to be separately, if not severally, carried on between Japan and Great Britain. For a more complete review of these discriminations I refer you to my dispatch No. 40, dated August 26th, 1869.

Should you agree with me that American interests have been ignored or only recognized by that Treaty to be oppressed, and should you ask

ask me to suggest a method of restoring our trade to the Equal rights, under the proposed treaties, with that of more fortunate if not more favored Powers to which it would seem to be Entitled, I confess myself no little at a loss for an answer.

Whether the policy of Expansion action, which has resulted in so completely isolating the United States, was a wise one or not I shall not hazard an opinion. We are certainly isolated at this time, whatever may come of it in the end. When the policy of isolation was Entered upon we seemed to be leading in the race. Our leadership is

is certainly not at present so manifest as we could wish.

There is some reason to fear that the splendid commercial and other advantages that were promised as the result of the brilliant diplomatic victory gained in February 1889, by the Ministers of the United States over his European Colleagues at this Capital do not at this moment seem to be materializing with any thing like the rapidity that was expected. And there is, evidently no little danger that, instead of being as we thought ourselves, the first to sit down to the banquet, we may have to take a seat at the

the second table and govern ourselves accordingly.

I have the honor to be

Sir,

Your obedient-servant,

John F. Luttrell

Rec'd by Mr Foote

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

Order of office to Mr. Pardee for filing April 1. 1890

DIPLOMATIC BUREAU
APR 1 1890

Mr Cridler

No 98.

Legation of the United States.
Tokio Japan, March 1. 1890.

Mr Swift:-
To the Secretary of State.

Subject:
Messrs. Dun and Gardiner's Commissions as Secretary and Second Secretary of Legation received, their oaths of allegiance enclosed.

No. 98.

Legation of the United States.
Tokio Japan March 1. 1890

Hon James G. Blaine
Secretary of State.
Washington D.C.

Sir,

Messrs Dun and Gardiner, having received their Commissions, issued by the President under date of December 20, 1889, appointing them, respectively, Secretary and Second Secretary of this Legation, have taken the oath of allegiance as required by law, and have entered upon their duties, in their respective capacities, under said Commissions.

I

I have the honor to Enclose herewith, the originals of the said oaths, sworn to before me on the 24. of February 1890.

I have the honor to be,

Sir,

Your obedient-servant.

John F. Stuart

Enclosures.

Oaths of allegiance as above.

Acknowledge & file



Mr Crosby

DIPLOMATIC BUREAU.
APR 1 1890

No. 99.

Legation of the United States
Tokio Japan. March 2. 1890.

Mr. Swift:-
To the Secretary of State.

Subject:
Receipt of telegraphic instruction
dated February 26. 1890.

No. 99.

Legation of the United States.
Tokio Japan, March 2, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir;

I have the honor to acknowledge the receipt of your telegraphic instruction, in cipher, which I read as follows:—

"Washington, Feby 26, 1890.-10, 15. P.M.
"Swift. American Minister,
" Tokio Japan.
" Inform Minister for Foreign
"Affairs President will not send
"Treaty to Senate without numerous
" and very important modifications.

Promptly

"Promptly advise Diplomatic Corps
"of this conclusion.

"Blaine"

I have the honor to be

Sir,

Your obedient servant,

John F. Swift

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAY 16 1890

File

No. 100.

Mr Crider

Legation of the United States.
Tokio Japan, March 2. 1890

Mr. Swift:
To the Secretary of State.

Subject:
Circular note to diplomatic Corps conveying information that the President will not send Treaty of Feby 20. 1889 to the Senate.

No. 100.

Legation of the United States.
Tokio Japan, March 2. 1890.

Hon. James G. Blaine,
Secretary of State.
Washington D.C.

Sir.

I have the honor to enclose herewith, a copy of a circular note which, in compliance with your telegraphic instruction, dated February 26, 1890, I had the honor on the 26th, ultimo to address to Mr. Sienkiewicz, the Doyen of the diplomatic Corps, advising that body through him, that the President would not send to the Senate the Treaty signed February 20, 1889

1887, by the Plenipotentiaries of the United States and Japan, without numerous and important modifications.

I have the honor to be

Sir.

Your obedient servant.

John F. Swift

Enclosure.

Mr. Swift to Mr. Sinkiuicz,

Feb. 26, 1890.

Enclosure with Mr. Swift's No.

Copy.

Legation of the United States,

Tokio, February 26, 1890.

My dear Colleague:

I have the honor to advise you hereby and, through you, as Doyen, to advise my Colleagues of the Diplomatic Corps, that I am instructed by my Government that the President will not send to the Senate the Treaty signed at Tokio on the 20th, of February 1889, by the Representatives of the United States and of His Imperial Japanese Majesty, without numerous and important modifications.

I avail myself of this opportunity to renew to you, my dear Colleague, the assurances of my highest consideration.

(signed) JOHN F. SWIFT.

His Excellency,

Joseph Adam Sienkiewicz,

E. E. and M. P. of France.

Doyen of the Diplomatic Corps.

No. 101.

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

DIPLOMATIC BUREAU.
APR 1 1890

Legation of the United States,
Tokio Japan, March 2, 1890.

Mr. Swift:

To the Secretary of State.

Subject:

Monthly returns of the foreign trade of Japan, June - December 1889.

No. 101.

Legation of the United States.
Tokio Japan, March 2, 1890.

Hon. James G. Blaine
Secretary of State.
Washington D.C.

Sir,

I have the honor to transmit, under separate cover, herewith, duplicate copies of the "Foreign Trade of the Empire of Japan" for the months of June, July, August, September, October, November and December 1889.

I have the honor to be
Sir
Your obedient servant,
John F. Swift

Enclosure, as above. Separate.

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAY 16 1890

file

No. 102.

Mr Critchfield

Legation of the United States.
Tokio Japan, March 6. 1890.

Mr. Swift:
To the Secretary of State.

Subject:
Correspondence with H. I. J. M's
Minister for Foreign Affairs in
consequence of telegraphic instructions
of February 26. 1890.

No 102.

Legation of the United States.
Tokio Japan. March 6. 1890.

Hon. James G. Blaine,
Secretary of State.
Washington D.C.

Sir:

Immediately upon the receipt of your telegraphic instructions of the 26th. ultimo, I addressed a note to His Excellency Viscount Aoki, H.I.J.M's Minister for Foreign Affairs, conveying to him the intentions of the President with respect to the Treaty of February 20, 1889. I have the honor to enclose herewith a copy of the note.

On the 1st. instant I received from the

the Minister a reply acknowledging
the receipt of my note. In the
same communication Vis count Aoki
proceeds to acknowledge the right
of the United States to make the
final ratification of the Treaty
dependent upon the introduction
of such amendments as they
may deem just and proper.
He also reserves the same right
to H. I. J. M's Government, and
then invites the United States to
present confidentially the changes
they desire to introduce, with the
assurance that such suggestions
will receive at the hands of the
Imperial Government careful
and considerate attention.

To this communication of ——

Vis count-

Viscount Aoki replied on the 3rd instant, with the somewhat extended letter, a copy of which I have the honor to enclose herewith, in which, for reasons set forth therein at length, I enquire of His Excellency whether, in case H. I. J. M's Government should find itself no longer entirely satisfied with the Treaty of February 20, 1889, it might not be advisable to furnish the President with its objections at the same time with the invitation, above named, so that both may be considered together.

I need hardly say to you that my reasons for sending this

this letter were precisely those expressed therein and none other.

His Imperial Majesty's Government had not furnished me with a copy of the new project of treaty revision which had already been agreed upon and sent to the Representatives of Great Britain and several other States. The omission to furnish me with a copy, however, did not, to the best of my belief, proceed from any intention on the part of Japan to conceal from the United States what is taking place, as the fact that the project had been sent out is an open secret generally known in diplomatic circles, but merely in pursuance of

of a programme agreed upon in the Cabinet of negotiating for the present, with the Powers that did not sign treaties last year commencing with Great Britain, and leaving those that did sign, namely the United States, Germany and Russia, to be dealt with later on; a programme of action entirely within the right of Japan to pursue and with which, so far as I can see, no fault can be found by the United States. In fact I learned yesterday that the German Minister had already received confidentially a copy, not, however, given to him

him as a project to be submitted at present to Germany, but simply for his information of a project which had been or was about to be submitted to Great Britain. My impression is that the note accompanying the confidential copy states that the paper sent is a copy of a project already submitted to Great Britain.

I am no reason to doubt that in like manner a confidential copy of the project would at any moment be promptly furnished to me were I to ask for it and that, in any case, a copy, in due course of time, probably very soon, will be sent me without the asking, but I

did

did not find myself in position
to ask. While those who had
told me of the existence of the
paper and the progress of the
affair had not enjoined
secrecy upon me, - in fact
I am not sure that the Japanese
Government expect or desire it
kept as a secret, - yet I did
not feel at liberty, as an attache
& and to suggest to the Foreign
Office my knowledge of the affair
which I must have done in directly
calling for a copy, and yet I
was specially anxious to obtain
one in order to send it by the
mail of the 8th instant for
your information. I hat-
a copy will be sent to me

at-

at an early day I have no doubt.

I have the honor to be

Sir,

Your obedient servant

John H. Swift

Enclosures:

1. Mr Swift to Vis count Aoki.
   Febry 26. 1890.
2. Vis count Aoki to Mr Swift.
   March 1. 1890.
3. Mr Swift to Vis count Aoki.
   March 3. 1890.

Enclosure with Mr. Swift's No. 102 — 1

Copy.

No. 42.

Legation of the United States,

Tokio, February 26th, 1890.

His Excellency,

Viscount Suizo Aoki,

H. I. J. M's. Minister for Foreign Affairs.

Viscount:

In obedience to instructions received from my Government this day, I have the honor to inform you, hereby, that the President will not send to the Senate the Treaty signed at Toki on the 20th, of February 1889, by the Represintatives of the United States and of His Imperial Japanese Majesty, without numerous and important modifications.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Signed) JOHN F. SWIFT.

Enclosure with Mr Swift's No. 102 — 2

Copy.

Confidential.

Department of Foreign Affairs, Tokio,
the 1st, day the 3rd, month, the 23rd
year of Meiji (March 1st, 1890).

His Excellency,

John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary
of the United States of America.

Sir:

I have the honor to acknowledge the receipt of your Note of the 26th, ultimo, in which you announce, in pursuance of instructions from your Government, that the President will not send to the Senate the Treaty signed at Tokio on the 20th, of February 1889, between the Plenipotentiaries of His Imperial Majesty and the United States, without numerous and important modifications.

Acknowledging, in reply, the right of the United States to make the final ratification of the revised Treaty of 1889, dependent upon the introduction of such amendments as they may deem just and proper, and reserving in favor of the Imperial Government the same right, I beg to invite your Government to present confidentially to His Imperial Majesty's Government the changes which they desire to introduce, and to assure them that their suggestions will receive at the hands of the Imperial Government, careful and considerate attention.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Signed) AOKI.

Enclosure with Mr. Swift's No. 102 — 3.

Copy.

No. 43. Legation of the United States,

Tokio March 3rd, 1890.

His Excellency,

Viscount Suizo Aoki,

H.I.J.M's. Minister for Foreign Affairs.

Viscount:

I have the honor to acknowledge the receipt of your Note of the 1st, instant in reply to my own of the 26th, ult., communicating to you under instructions, the intention of the President of the United States with respect to the Treaty signed at Tokio on the 20th, of February 1889.

In answer I beg to assure Your Excellency that I shall take pleasure in forwarding with the utmost promptness to my Government the invitation which you have thus extended to them "to present confidentially to His Japanese Majesty's Government the changes which they desire to introduce", as well as the assurances you give "that their suggestions will "receive careful and considerate attention".

My despatch making this communication will go by the mail leaving Yokohama on the 8th, of thespresent month and may be expected to reach Washington about the 5th, proximo.

The long standing friendly attitude of the United States towards Japan I have no doubt is sufficient, without any special assurance on my part, to convince Your Excellency that the invitation when received will be treated with the courteous, just and prompt consideration its importance deserves.

Especially disclaiming for myself and my Government any

pretence

pretence of a right to prescribe or in any manner to influence the course to be pursued by Japan in the sovereign act of seeking a revision of her Treaties yet I trust it will not be taken amiss if I make certain suggestions that may tend to a more speedy adjustment of matters. With that in view I beg to remind Your Excellency that the negotiations which led to the exchange of signatures on the 20th, of February 1889, were inaugurated and carried on entirely at the instance and request of H.I.JM's Government. That the United States has not at any time manifested any desire to change the Treaties as they now stand. That, in consenting to any change whatever my Government has been actuated solely by a genuine and sincere wish to meet and gratify the aspirations of Japan and to aid in her progress and advancement.

I think I can safely assure Your Excellency that should my Government accept your invitation to renew the negotiations for such I take the invitation to mean it will not be with the desire or expectation of gaining any advantage over Japan by any change in existing Treaties.

I observe that in Your Excellency's Note, while conceeding to the United States the right to make the final ratification of the Treaty of February 20th, 1889, dependent upon the introduction of Such amendments as they may deem proper, you at the same time are careful to reserve in favor of the Imperial Government the same right. This circumstance taken with the recollection of a conversation which I had the honor to have with Your Excellency at this Legation some time in

December

December last, in which you expressed views, tending, it seemed to me, in the same direction, leads me to think it not impossible that H.I.J.M's Government may have had other reasons for requesting of the United States that the Treaty be held in abeyance in addition to those expressed in the telegram to Mr. Mutsu of the 13th, of December last, and that in fact the Treaty of February 20th, 1889, may not at this time be entirely satisfactory to Japan. If such be the case and not otherwise and in view of the foregoing circumstances which I have stated as bearing upon the position of the United States as to treaty revision in Japan, I venture to ask Your Excellency if it would not be likely to contribute to a more speedy understanding between the two Governments, if your Excellency were to communicate to my Government confidentially any change of views which may have taken place in H.I.J.M's Government since the Treaty was signed, so that the President and his advisers may have the entire matter before them when when called upon to accept or reject your invitation.

I again call your attention to and repeat my disclaimer of any right to officiously intermeddle with the treaty revision plans of H.I.J.M's Government and to assure Yor Excellency that what I say arises solely from a friendly spirit and to facilitate the matter, in view of the great distance between this Capital and the seat of my Government with the resulting expenditure of time and money in correspondence.

I cannot close however without adding, out of great caution, that inasmuch as I have no official information of

view

any change of view on the part of H.I.J.M's Government with respect to the Treaty I very freely admit that I may have misinterpreted the incidents above referred to as leading me to think it possible that such a change of view had occurred. I need hardly say that in case no such change of view has taken place and the Treaty of February 20th, 1889, still remains satisfactory to Japan in all respects, save as to the time of its taking effect, as expressed in your telegram to Mr. Mutsu, then what I have said will require no attention at your hands; and I beg Your Excellency, while dismissing it from consideration will attribute it entirely to my zeal in endeavoring to strengthen the good relations between the two countries.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Signed) JOHN F. SWIFT.

DEPARTMENT OF STATE
APR 1 1890
RECEIVED.

No. 108.

Legation of the United States
Tokio, Japan, March 7, 1890.

Mr. Swift
To the Secretary of State.

Subject:

Note from the Minister of Foreign Affairs enclosing a Memorandum of Changes desired in the Negotiated Treaties.

No. 103.

Legation of the United States.
Tokio, Japan, March 7, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to transmit herewith a copy of a note accompanied with a memorandum, received at a late hour yesterday evening from H.E. Viscount Aoki, H.I.J.M's. Minister of State for Foreign Affairs. The note is in reply to my own addressed to the Viscount, dated the 3rd. instant, a copy of which accompanies my dispatch No. 102 going hence by the same mail which

For memorandum see note of May 29, 1890 from British Minister

which conveys this and will explain itself.

The "Memorandum" is the paper which I informed you in recent dispatches No. 97 and No. 102 had been agreed upon by the Emperor and Cabinet, printed and distributed to a portion of the Diplomatic Corps, beginning with Great Britain. Although, as I have already informed you, the United States was not the first Power to be furnished with a copy of the document, I do not attribute that circumstance to any desire on the part of the Japanese Ministry to mislead our Government or to conceal what was going on, but was simply

simply the result of a programme of treaty revision in which it was not necessary to begin with us.

It is due to H. I. J. M's Government as well as to yourself, in order that you may more completely understand the situation, that I should assure you that both Count Okuma, the late Minister of Foreign Affairs, and Vis Count Aoki, as well as the entire Cabinet, so far as I have been brought into relations with them, have at all times exhibited the greatest respect and consideration for the United States as well as courtesy towards myself as its representative.

That

That in the matter of the pending treaties and treaty revision — generally, I have no fears whatever that our interests will suffer through any discriminative action or management originating with H. I. M's. Ministers.

* It is true that I have, in my own account and without awaiting to ascertain your views, expressed the opinion for myself that the Tariff schedule agreed upon first by the United States in the Treaty of February 20, 1889, and — afterwards by such States as signed similar Conventions, namely, — Germany and Russia, when compared with the treatment it — accorded to the productions of the leading

leading commercial Powers of Europe, was not fair to the commerce of the United States and, in fact, discriminated against us. But I have never attributed this result to any desire on the part of Japan to discriminate against our trade. This result, as I thought, grew out of the overshadowing desire of Japan to revise her Treaties upon questions of the personal status of foreigners, leaving the tariff, in the minds of H. I. M's Ministers a matter of secondary importance for the Powers to fight out to a conclusion amongst themselves. As it appears to me, there was a general scramble on the part of the

foreign

foreign representatives, each
maneuvering to get as good a
place on the tariff list as pos
-sible for the reductions of his
own country. In this scramb
we did not come out actually
at the tail, for the sugar of
China was reached in
the melee than any of our
American articles. But this
it is to be remembered that
China was not even represente
in the Conference while we
actually had place on the
Committee that made the sched

It is generally understood
the Tariff Law was prepared
substantially by Mr. Gubbi
one of the British Secretaries
Legatio

Legation, a gentleman of high character and accomplishments and under the direct supervision of Sir F. Plunkett, H.B.M's Minister Plenipotentiary.

As for Japan, she entered on at the fray with polite indifference and when it was finished gracefully awarded herself to the victor.

The Memorandum of the Japanese Government did not reach me in time to allow of my making any very carefully considered comments upon it. I may, however, call your attention to the fact that the reservation of power and jurisdiction over foreigners in Japan to H.B.M's Government and laws are very

much

much more extensive than has been contained in any project heretofore offered. The general scope of these reservations is to be found in the fourth amendment, namely, that the stipulations of the Treaty shall "in no wise "effect the laws, decrees and special "regulations . . . regarding . . . "administrative and police matters "now in force or which may hereafter be enacted . . . and "generally applicable to foreigners."

The foregoing clause, as it seems to me at a hasty glance, would materially control, if not actually nullify the stipulations of the Treaty in Articles I and II, extending to foreigners generally

generally, in our own case to American citizens, the right of travel, residence and property ownership throughout the country. Inasmuch as the present limitations upon the right for foreigners to travel, reside and trade in Japan outside of the treaty limits or settlements, and as they have existed in the past and still continue in force, are due to the effect of "laws, decrees and special regulations based upon the sovereign power of the state (Japan) regarding administrative and police matters," it follows that in asking us to agree to this clause, H. M.'s Government are, in effect, asking us to consent that there "laws, decrees and special regulations"

may

may continue in force indef-
-initely and that new ones may
from time to time be added at
the discretion of Japan.

It is true that according
to modern international law
such power exists inherently
in all sovereign states.

That the right of general
travel, residence, property-owner-
-ship and the like in favor of
foreigners generally, exclusive
of merchants, is not, as between
western nations ordinarily
made the subject of treaty
stipulation. Western nations
regulate these rights by their
own municipal laws (if I
understand the subject aright,
and

and if not I invite your correc-
-tion) and usually extend by
such laws, independent of treaties,
the largest liberty of this kind.

It follows that what Japan
seeks to reserve to herself, in
this case, most Western Powers
habitually hold in reserve.

If I do not misapprehend
the law, it seems to me that
any Western Power, France for
example, could, without break-
-ing existing treaties, prevent
general immigration into her
territory, could limit denizens
generally in their occupations,
or even the length of their resi-
-dence and could require any of
them not merchants to reside at
specified

specified places, or even to withdraw from the country altogether. But such reserve power with Western states, for reasons which are obvious and need not be specified, is not likely to be enforced to the detriment of foreigners. In this instance, however, the matter is quite different. If I understand the situation correctly, in Japan the reservation is asked for with the unquestionable intention to exercise it, if found necessary, and under contingencies very likely to happen, namely, in case there should be found to exist any serious and pronounced popular objection to the presence of foreigners at large throughout the

the country, and to be enforced so long as that popular objection exists, and, I take it for granted, no longer.

There is no doubt whatever in my mind that the intelligent, educated and enlightened statesmen who are at the head of the Japanese Government sincerely desire to extend, and, as far as lies within their power, extend by positive municipal enactment to extend to foreigners in Japan all the privileges of residence, travel, trade and property rights, that are usually enjoyed by foreigners domiciled or traveling in the territory of European and American States. But it is feared that these statesmen have marched so rapidly

On

on the road to Western civili-
-zation and Western methods that
they have outstripped the great
mass of the people, leaving them
still lagging to a greater or
lesser extent in the rear.

In short, it is doubtful if
the time has yet arrived when
Japan can safely be thrown
open to foreign residence, trade,
travel and property-ownership.
The rulers of the country are
willing and even anxious to do
it and beyond question will as
soon as it is safe. But they
insist upon themselves judging
the time.

In the meanwhile they
seek to extinguish by revision

Of

of the Treaties the extraterritorial jurisdictional privileges now enjoyed by foreigners and to bring them under Japanese laws and jurisdiction, outside of the present settlements at once and in all other places in Japan at the end of the by no means remote period of five years. It is thus that, after a very hasty glance at this Memorandum submitted by Viscount Aoki to the foreign states, I interpret its meaning.

I do this simply by way of suggestion to you, for the purpose of bringing the entire subject-matter in the attitude it strikes me, as pointedly as possible to your attention, submitting all,

however,

however, to your final and more enlarged consideration and judgment. It is manifest that the situation in Japan, at this time is peculiar and critical. The eminent statesmen at the head of the Government are surrounded with difficulties, social, political and diplomatic, of the gravest character and they are entitled to the sympathies and, as far as possible, within the principles of international law, and so far as consistent with the interests of their own people, to the aid, encouragement and support of all civilized powers.

To what extent the United States can safely yield to the propositions

propositions put forth at this moment by Japan, is a question I submit to your careful consideration and judgment with the assurance that I shall cheerfully and to the best of my ability, carry out such instructions as you may deem proper to transmit for my guidance.

I have the honor to be,

Sir,

Your obedient servant,

John F. Swift

Enclosures: Note from H. E. Vis Count Aoki, as above.

Separate: Memorandum, as above.

Enclosure with Mr. Swift's No. 103.

Copy.

Department for Foreign Affairs,

Tokio, Mrach 6th, 1890.

His Excellency,

John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary

of the United States of America.

Sir:

I have had the honor to receive Your Excellency's Note of the 3rd, inatant, in continuation of the subject of the modifications which the Government of the United States desires to introduce into the Treaty of 1889, before ratification, in which you suggest, while disclaiming for yourself and your Government "any pretence of a right to prescribe "or in any way to influence the course to be pursued by Japan "in the sovereign act of seeking a revision of her Treaties," that, in the event the new Treaty is not entirely satisfactory to the Imperial Government, the confidential presentation to your Government at this time, of such amendments as His Imperial Majesty's Government may desire to insert, might contribute to a speedy adjustment of the question.

The friendly assurances contained in your Note, as well as the disclaimer to which allusion has already been made, have served to remove the painful impression and doubt as to the future policy of the United States, which, I feel justified in informing you in that spirit of frankness which is

the

the best guarantee of a perfect accord and understanding between Governments, were awakened by the fact that the official announcement of the intention of the President of the United States with respect to the Treaty, was not confined to that Power which was alone directly interested in the question.

In responding to your suggestion as I now have the honor to do, by enclosing a Memorandum, which embodies the amendments which the Imperial Government have found it necessary to introduce into the depending treaty revision proposals, and which has already been communicated to some of the Powers to whom the original project was presented, I beg to explain to you more fully than I have hitherto had an opportunuty of doing the actual intentions of the Imperial Government and I venture to hope that, whatever opinion you may entertain as to the wisdom of the present policy of His Imperial Majesty's Government, you will believe that that policy was dictated solely by a desire to accomplish a revision of the Treaties in the manner most satisfactory to all the Powers concerned.

At the time when the telegram to Mr. Mutsu, to which you refer, was sent, the Imperial Government were not aware what amendments, if any to the new Treaty, were essential. They had, however, satisfied themselves that it would be impossible to put the Treaty into force on the date originally designated and they consequently thought it more in harmony with good faith and direction to assign as a reason for asking that the Treaty be allowed to remain in abeyance, an actual, sufficient excuse, rather than to advance a reason which at the time

existed

existed in potentiality only.

Subsequently when it became evident that modifications were indispensable, I avowed the fact to you as you point out in your Note now under reply. I did not, however, make that avowal for the purpose of inauguration new negotiations or reopening those that had preceded the act of February 20th, 1889. The Imperial Government fully appreciated the friendly disposition that had induced the United States to conclude the new Treaty and they thought that they could best manifest that appreciation by refraining from formally approaching your Government with a view to obtain their consent to the desired alterations, until after progress had been made in that direction, with those Powers that had not yet signed the new Treaties. But the Imperial Government had no intention of permitting the Government of the United States to remain at any time in ignorance of the actual situation of affairs.

Before, however, it was possible to put the modifications into articulate form and issue them, I was honored by your Note of the 26th, ultimo. The announcement contained in that communication, in the opinion of His Imperial Majesty's Government at once changed the situation. For the first time the Imperial Government were made aware that the United States would only accept the Treaty upon condition that numerous and important modifications were introduced. The Imperial Government were not, however, made acquainted with the nature of those modifications. But considering the comprehensive

terms

terms employed in describing them, the Imperial Government could not but assume that some of the amendments would prove to be similar to, if not identical with the alterations which they themselves wished to introduce.

Under the circumstances His Imperial Majesty's Government regarded their position pending the presentation of those modifications which the United States wished to make, as one of expectancy only, a position which was in their judgment, perfectly consistent with the high appreciation entertained by them of the friendly attitude of the United States.

It is a source of profound regret to me as well as to my Government, if any other interpretation of the action of the Imperial Government has suggested itself to Your Excellency or to Your Excellency's Government and the purpose of this Note will be fully subserved, if the lengthy explanation which I have deemed it proper to give tends to remove any false impressions that may exist on the subject.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Signed) AOKI.

DEPARTMENT OF STATE
APR 15 1890
RECEIVED.

file

No. 104.

Two copies of Report to Mr. Scarlet Apr. 16 1890.
One copy of Report &c. Bureau of Statistics. Treasury Dept April 16 1890 Cir'd 161

Legation of the United States.
Tokio Japan. March 17. 1890.

DIPLOMATIC BUREAU.
APR 16 1890

Mr. Swift;
To the Secretary of State.

Subject:
Foreign Trade of Japan for 1889.

No. 104.

Legation of the United States.
Tokio Japan, March 17. 1890.

Hon. James G. Blaine,
Secretary of State.
Washington D.C.

Sir:

I have the honor to transmit, herewith, under separate cover, three copies of the "Annual Return of "The Foreign Trade of The Empire of "Japan" for 1889.

I have the honor to be
Sir,
Your obedient servant,
John F. Swift

Enclosure.
Separate, as above.

DEPARTMENT OF STATE
APR 15 1890
RECEIVED.

DIPLOMATIC BUREAU.
APR 15 1890

R & Mss File.

No. 105.

One copy of Report to Director of the Mint, Apr. 14, 90
✓ One copy of Report to Library Apr. 14 90

Legation of the United States.

Tokio Japan, March 17. 1890.

Mr. Swift:

To the Secretary of State.

Subject:

Report of the Director of the Imperial Japanese Mint for the year Ending March 31. 1889.

No. 106.

Legation of the United States.
Tokio Japan, March 17, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

I have the honor to transmit, herewith, under separate cover, three copies of the Director of the Imperial Japanese Mint for the year ended March 31. 1889.

I have the honor to be
Sir,
Your obedient servant
James T. Swift

Enclosure:
Separate, as above.

DEPARTMENT OF STATE
APR 15 1890
RECEIVED.

DIPLOMATIC BUREAU
APR 16 1890

No. 106.

17 Feb
Dabs

Mr. Conden

Legation of the United States.

Tokio Japan. March 18, 1890.

2d ASSISTANT SECRETARY.
Send to Smithsonian
for acknowledge.
APR 16 1890

Personal letter
Ack. & comply - copy 3/20

Mr. Swift.-

To the Secretary of State.

Subject.-

Rope made of human hair for the Smithsonian Institution.

No. 106.

Legation of the United States.
Tokio Japan, March 18, 1870.

Hon. James G. Blaine.
Secretary of State.
Washington D.C.

Sir.

Some time since Mr. V. Marshall Law, a citizen of the United States residing in Tokio, informed me that he had in his possession a section of rope made of human hair which had been used as an ordinary Cable in lifting building material in the construction of a Buddhist temple at Kyoto in Japan, which he desired to transmit-

as

as a free gift to the Smithsonian Institution, for final deposit, as an object of general public interest. He at the same time inquired if I could, in any manner facilitate the transport of this curious rope to its place of destination, inasmuch as for him to do so would involve on his part, some outlay of money and other inconveniences more or less difficult to overcome.

As I understood Mr. Law to say: the Priests of the Temple only consented to part with the piece of rope upon the positive assurance from him that the rope was not for Mr. Law but for the American Nation

and

and that it would be placed in the Smithsonian Institution as a public deposit and in fact that they intended it as a gift to the people of the United States, positively declining to allow any private person to have what they regarded as a sacred thing.

Under these circumstances I have thought it proper to assist in its conveyance and delivery and to utilize the return despatch pouch to transmit the rope to the United States, in the belief that you will consider this curious relic worthy of being so officially forwarded and a reserve of my action.

I

I have the honor, therefore, to request that you will cause the section of human hair rope with the accompanying photograph of the entire rolls of cable, still remaining at the new Buddhist Temple at Kyoto, as well as the papers and documents, including a copy of the letter from Mr Law, to be delivered to the Smithsonian Institution in such manner as you may deem suitable and proper.

I have the honor to be

Sir,

Your obedient servant

John A. Swift

Enclosure. Mr Law to Mr Swift.
in duplicate. March 6. 1890

Enclosures.

Enclosures. Separate.

1. Section of human hair cable.
2. Photograph of remaining rope.
3. Lithograph of Kyoto Hon-gwanji Temple.
4. Table showing size and length of all the hair ropes.

Enclosure with Mr Swift's No: 106.

Copy.

Tokio, Japan,

March 6th, 1890.

To The Honorable John F. Swift,

United States Minister at the Court of Japan,

No. 22, Tsukiji, Tokio, Japan.

Honorable and Dear Sir:

The writer sends you to-day a section of rope made of human hair, also a large photograph of all the remaining hair cables in existence at this time, a table of the names of the Provinces of the donors showing the size and length of each of the ropes used in the construction of the Eastern Hon-gwan-ji Temple at Kyoto, and a lithograph drawn to scale of that famous Buddhist edifice, with the request that if it meets with your approval it may be forwarded to the Sithsonian Institution in the United States, with such of the latter named documents as may, in your estimation, be of interest to the patrons of that institution.

These articles came into my possession under the following circumstances:- Last July the writer visited Kyoto and while looking over that ancient city of Japan visited the Hon-gwan-ji Temple then almost completed. His attention was particularly

particularly drawn to the numerous black hair cables lying about, all of which were or had been in use for elevating heavy timbers, et cetera. Upon inquiry he learned that these ropes were made from the hair of men and women who were the followers of Buddha, and who had sacrificed their long hair that these ropes might be made. The writer was impressed with the fact that these hair ropes told an eloquent story of the self-sacrifiding devotion of the followers of this religion, and he at once made efforts to secure peices of the ropes to send to the Smithsonian Institution. Every effort made at that time failed and the best he could do was to request that his application be placed"on file" and brought before the Council of Buddhist Priests. As many sight seers had already made efforts to beg or buy pieces of these ropes to no purpose the writer suffered many a quiet "smile" from his friends who, while they were astonished at the writers audacity, felt that they knew perfectly well that he would never get a piece of those ropes under any pretext whatever. But at last after more than seven months, the leading Buddhist Priest of Japan, Hiramatz Rei, has delivered to the writer

the

the section of the largest cable called for, along with the photograph and printed tables of length and weight, the two latter having been especially provided by them, in order that Americans might the better judge of the enormous quantity of hair furnished them for the making of these ropes. The writer cannot rid himself of the idea that the religious people of America can learn a lesson of personal sacrifice and devotion from these followers of Buddha in Japan. How many churches would be built in Christendom if the rank and file were called upon to sacrifice their hair for the manufacture of the necessary ropes and cables? Respectfully submitting these relics to your disposal in accordance with a pledge made to Mr. Hiramatz Rei, the writer remains

Your's very sincerely,

V. MARSHALL LAW.

25, Tsukiji, Tokyo.

DEPARTMENT OF STATE
APR 15 1890
RECEIVED.

Leave 16 abs
Mr Cridler

DIPLOMATIC BUREAU.
APR 16 1890

L

U.S. Legation

Tōkyō March 21st 1890

W. N. Whitney,

To the Secretary of State

Subject.

Report returns to post March 8th from leave of absence.

U.S. Legation

Tokyo March 21st 1890.

Hon. Jas. G. Blaine

Secretary of State

Washington.

Sir:

I have the honor to inform you of my return to Tokyo on the 8th instant, and that on the same day I reported myself to the U.S. Minister for duty.

I beg to express my sincere thanks for the extensions of my leave on account of the illness of my children at Baltimore another of whom died of pneumonia on the journey hither.

I have the honor to be

Sir,

Your obedient servant

Willis Norton Whitney

Interpreter of Legation

Kirkhoffer

DEPARTMENT OF STATE
APR 15 1890
RECEIVED.

Affirms Hay Softer
Coolidge

DIPLOMATIC BUREAU
APR 16 1890

1 Am 30 ab

No. 107.

Legation of the United States.
Tokio Japan, March 21. 1890.

Mr. Swift:
To the Secretary of State.

Subject:
Statement of account for rent of Legation buildings and grounds for the year Ended March 15, 1890.

No. 107.

Legation of the United States.
Tokio Japan. March 21. 1890.

Hon. James G. Blaine,
Secretary of State.
Washington D.C.

Sir:

The annual rent for this Legations buildings and grounds under the contract of lease, a renewal of which was concluded between my predecessor the Hon. Richard B. Hubbard and Thomas F. McGrath, attorney in fact for Susan Cythera Twombly, sole Executrix for the late John Fogg Twombly, on the 15th of March 1888, and a supplemental

Contract

contract for the same, concluded on the 27th day of June 1888, fall due on the 16th of the present month by virtue of ilo terms.

On the 27th day of June 1887 the Lessor, above named, conveyed the leased premises together with the unexpired term and future rent to J. Johnstone, a copy of which Convey ance is enclosed herewith, so that the said Johnstone became entitled to the rent from the said day.

In payment of said rent for the year Ended March 16. 1870, I have drawn two drafts on you; one, No. 4, dated said last mentioned day for the sum of $991.66, in favor of Said Susan Cythenia Twombly.

re 9. for her portion, and another, No. 6, of the same date for $2408.34. in favor of said J. Johnstone for his portion of said years rent.

You will observe that I have taken the precaution to obtain the receipt and acquittance as to the full amount for the entire year from both of said parties as well as from Thomas F. McGrath in his own behalf though he has been acting as agent or attorney for the parties. These receipts are in triplicate the original of which is enclosed herewith, together with my account for the said rent.

I will forward a duplicate of

of said receipt and account by the next mail.

I have the honor to be

Sir,

Your obedient servant

Daniel Tuttle

Enclosures.

1 Conveyance

2 Account, as above, with vouchers.

3 Power of attorney.

J. Johnsonne to Thos F. McGrath.

Enclosure with No. 107. - 1.

This Indenture made the 27th. day of June 1889 between Susan Cythera Twombly sole Executrix of the late John Fogg Twombly of the City of Newyork in the County and State of Newyork united States of America (as per certified Copy of certificate of Letters Testamentary granted by the Surrogate Court in Newyork of the County of Newyork attached hereunto) party of the first part, and I. Johnstone a British Subject residing at Yokohama in the Empire of Japan - party of the second part - Witnesseth - that the party of the first part for and in consideration of the Sum of Twenty Eight Thousand local currency dollars say Mexican dollars to her in hand paid receipt whereof is hereby acknowledged; has granted bargained and sold conveyed and confirmed and by these presents does grant bargain and sell convey and confirm unto the said party of the second part, and to his heirs and assigns forever all her right

title and interest in and to those certain lots of land situated in the Foreign concession Tsukiji Tokyo known as lots No. 1.2.3. 21. 22. say number one, number two, number three, number twenty one and number twenty two, containing Fifteen Hundred and Seventy six, ninety one hundredth Tsubos as described in the Official plot or plan of said Foreign concession, as per Title deeds, as issued by the Japanese authorities hereunto attached subject to the Groundrent as it may become due thereon to the Japanese Government from and after the 1st. day of July 1889. and all the Buildings thereon with the Furniture and Fixtures therein as per list of same hereunto attached and so much thereof as is contained therein less the usual wear and tear on taking possession of the said described premises any additions and improvements to the said Furniture since the date thereof. May 17th. 1889 to be taken as offset against any shortages and breakages

also so much of the remexpired term of the present lease of the said Premises to the Government of the United States with all its terms, conditions and Covenants and expiring March 15th 1890, and/or at any earlier date if the Premises should be vacated or given up by the Lessors. To have and to hold all and singular the said premises with the appurtenances, Buildings and Fixtures and the Furniture therein as per the said list thereof, unto the said party of the second part his heirs and assigns.

In Witness whereof, the said party of the first part has hereunto set her hand and seal the day and year first above written.

Signed. Susan Cynthia Twombly (Seal)

Sole Executrix of the last Will & Testament of
John Fogg Twombly, deceased
per Thos. F. McElwrath, atty. in fact for
Susan Cynthia Twombly, Sole Executrix of the
last Will and Testament of the late John Fogg Twombly deceased
as per certified copy of my Power of Attorney
attached.

ated in the
ce of
W. Seidmore.
Mieura.

Copy.

United States Consulate General
Kanagawa, Japan.

I hereby certify that the within indenture is a true copy of a document produced to and acknowledged before me by Thomas F. McGrath, attorney in fact of Susan Cythera Twombly, late executrix of the last Will and Testament of John Fogg Twombly, deceased, on the 27th day of June, A.D. 1889.

In witness whereof I have hereunto set my hand and official seal this twentieth day of March, 1890.

(Signed) C. R. Greathouse
U.S. Consul General,
Kanagawa, Japan.

Seal

Attest:

W. R. Langdon Jr.
Second Secretary of Legation
Tokio, Japan.

{Enclosure 3. with No. 107

Copy

Consular Seal

To all to whom these Presents
come, I, Arthur Morison
Chalmers, British Pro-Consul at
Nanagawa, in the Empire of
Japan, do hereby certify that
on the day of the date hereof —
personally appeared before me —
James Johnstone, the person
named in the paper, writing, or
power-of-attorney hereunto annexed
and that the said James Johnstone
did duly sign, seal and deliver
the said power-of-attorney and
that the name J. Johnstone,
thereunto subscribed is of the
proper handwriting of the said

James

James Johnstone and that the names Arthur Hyde Lay and George Hodges subscribed as the witnesses thereto are of the respective proper handwriting of Arthur Hyde Lay and George Hodges.

In Faith and Testimony whereof I have hereunto subscribed my name and affixed my seal of office this 19th day of March, in the Year of Our Lord One thousand eight hundred and ninety

(Signed) A. M. Chalmers

Pro-Consul

Seal

Attest: W. R. Goodinough

Second Secretary U. S. Legation, Tokio.

Copy.

Know all men by these presents that I, J. Johnstone, have made, constituted and appointed, and by these presents do make, constitute and appoint Thomas F. McGrath my true and lawful attorney, for me, and in my name, and for my use to ask, demand and receive my proportion of the rent due on the 15th March, 1890, under the lease to the Government of the United States of the Premises known as the American Legation, situated at No. 1, Tsukiji, Tokio, and upon receipt thereof to give proper acquittances, and sufficient discharge thereof, as per terms of sale of this Leasehold dated June 17th, 1889, as per foreign copy of same attached hereto.

Witness (Signed) J. Johnstone

Yokohama, March 19th., 1890.

Arthur Hyde Lay
Consular Assistant

Geo. Hodges,
H.B.M's. Consulate, Yokohama.

DEPARTMENT OF STATE
APR 15 1890
RECEIVED

DIPLOMATIC BUREAU.
APR 16 1890

No 108.

Legation of the United States.
Tokio Japan. March 21. 1890.

Mr Swift;
To the Secretary of State.

Subject.
Requisition for supplies for offices.

No. 108.

Legation of the United States.
Tokio Japan, March 21. 1870.

Hon James G. Blaine.
Secretary of State.
Washington D.C.

Sir.

I have the honor to make requisition on the department for office supplies as per the enclosed list in duplicate.

I have the honor to be
Sir.
Your obedient-servant
Joseph Heco

Enclosure
List, in duplicate, as above.

Supply List:

Two dozen pen holders.
Supply of Falcon pens.
Supply of "J" steel pens.
Three non-copying type-writer ribbons.
Supply of red, white and blue cord.
Supply dispatch paper.
Supply of Salary Account blanks.
One large flag for the Legation.
Two dozen pads clip paper, assorted.
Half-dozen knife erasers.
Half dozen gum erasers.

DEPARTMENT OF STATE
APR 25 1890
RECEIVED.

DIPLOMATIC BUREAU.
APR 26 1890

No. 109.

Ans. 28 Apr.

Legation of the United States.
Tokio, Japan, March 24, 1890.

2d ASSISTANT SECRETARY.
Note by subject & file.
APR 26 1890

Mr. Swift
To the Secretary of State.

Subject:
Discussion of Punishment for Criminal Libel in Japan, by English Journalists.

No. 109. Legation of the United States.

Tokio, Japan, March 24, 1890.

Hon. James G. Blaine,

Secretary of State,

Washington, D.C.

Sir:

I have the honor to enclose herewith, for your perusal, excerpts of editorial articles from two of the English newspapers published at Yokohama, of a recent date, namely, two clippings from the "Japan Herald" and one from the "Japan Mail," in which the two journals discuss a certain judicial proceeding that lately took place in the Courts of this country.

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It seems that certain native journalists have within the last month been convicted and punished for what in the United States would be termed a criminal libel upon the founder of the present Imperial dynasty, long since deceased. The particular ancestor of this Imperial Japanese Majesty thus libelled is Jimmu Tenno, who, according to Japanese tradition, came from the sun, conquered Japan, and established his family upon the throne about 25 00 years ago.

One of the newspapers, the "Herald," argues with considerable force that the punishment is excessively severe and offers it

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in evidence as tending to establish the fact that to abolish extraterritoriality and consular jurisdiction would be dangerous to foreigners in Japan, and especially to foreign journals — in fact would suppress them. To this contention the "Mail" replies in a very able, written article, though not entirely courteous to the other side. Without expressing any opinion — whatever as to what might or might not happen to foreign journals in Japan if Consular jurisdiction were abolished, it seems to me very manifest that the Government is right in regarding attacks upon the power and influence of the reigning family and in

adopting

adopting measures to suppress it as seditious and dangerous to peace and good order.

The mass of the people have not yet, in my opinion, acquired that gravity and poise of character, nor the requisite knowledge of the principles of Government to render it safe to materially weaken the existing Executive authority. It is evident to my mind that the Government is moving in the matter of popular concessions, such as a Constitution and a representative Parliament, quite up to, if not beyond, the capacity of the people to utilize to a good purpose what is thus offered them. The danger, if there be danger at all,

is

is that things are going too fast.

The question of the wisdom of abolishing extraterritoriality at this time is one that stands quite by itself and must be considered from its practical as well as its theoretical point of view.

In addition to the discussions about the convicted Japanese journalists, I wish especially to call your attention to a portion of the editorial from the "Japan Mail" above referred to, which appears to be aimed at and to dispute the facts of the alleged confession which was said to have been lately extorted from an accused man by the police and written down by an anonymous correspondent in the "Japan Gazette".

a

a copy of which I enclosed to you in my dispatch No. 95, dated the 27th. of February, 1890. In that dispatch I referred to the fact that the writer in the "Japan Gazette" had not given his name nor any of the details of the case, such as time or place, which were circumstances more or less suspicious, but that, though published in a respectable newspaper it had not, to my knowledge, been denied.

The article in the "Mail" to which I enclosed, shows that the editor of that journal has read the anonymous communication about the attempted confession and does not believe it to have occurred. The communication itself, having

omitted

omitted to give date or place or names could not be more specifically denied. Having stated in my former dispatch that the story had not been disputed, I hasten to give the article from the "Mail" as being, under the circumstances, sufficiently of the character of a denial, to at least establish the fact that the story is not unchallenged.

I have the honor to be

Sir

Your obedient servant,

John T. Swift

Enclosures: 1. Clipping from Japan Herald
2. Clipping from Japan Herald.
3. Clipping from Japan Mail.

Enclosure 1 with No. 109.

The Japan Daily Herald.

MONDAY, 17TH MARCH, 1890.

WE published, on the 26th ult., an extract from the *Japan Mail* translations regarding the suspension of a paper called the *Nohi Nippo*, and the arrest of the editor by the Gifu Correctional Court, for having published matter alleged to have been disrespectful to the Emperor JIMMU, and to the absurdity of which proceeding we called attention. We now learn that the editor and publisher have each been punished with the utmost rigour of the law, being sentenced to four years' imprisonment with hard labour, and to pay a fine of *yen* 100, besides being under police supervision for one year and a half after being liberated. The actual writer of the article in question has been much more severely dealt with, being imprisoned for four and a half years with hard labour, and to pay a correctional fine of *yen* 150, besides being under police supervision, on the expiry of his term, for the period of two years. These sentences, in the eyes of Europeans, seem monstrous, considering that, as we previously remarked, the potentate referred to has passed away over 2,500 years ago, and his acts may be relegated to the realms of mythology. Judging by this it seems to us a fortunate thing for the foreign Press that it can claim exterritorial privileges, and that it is not under the benign Press Laws of Japan, otherwise its career would be brought to a very abrupt end. But what will the European and American statesmen think of laws under which such things are possible?

Enclosure 2 with No. 109.

The Japan Daily Herald.

SATURDAY, 22ND MARCH, 1890.

We give below the text of the Judgment delivered by the Gifu *Keizai Saibansho*, on the 14th inst., relative to an alleged disrespectful article in connection with the *Kingensetsu* (anniversary of the accession of JIMMU-TENNO) published in the *Nohi Nippo*, as well as extracts from the article complained of, embodied in the judgment. Our readers will no doubt remember we called attention on the 26th ult. and on the 17th inst. to the article in question, and to the excessively severe sentences passed on the editor, publisher and actual writer of the paragraph in question. The *Japan Mail*, of course, took us to task for having thus drawn attention to the subject, and for commenting upon facts which we had only learned from the newspapers. We might point out that the *Japan Mail* knew no more of the subject than we did ourselves, and was therefore equally blamable in discussing it. Now, however, that we have the full text of the judgment before us, we find no reason to change our former opinion on the subject. We have not time to-day to fully examine the question, but shall return to it on a future occasion, but we must say that we cannot consider the statements quoted in the judgment of the Court as being disrespectful either to their Imperial Majesties or to the Crown Prince, which is the offence of which the accused were found guilty, and we are strongly of opinion that if JIMMU TENNO were qualified to speak for himself, he would agree with the writer of the paragraph, that the mass of the people of Japan were, in his days, practically slaves, and had as much consideration shown to them as the Norman conquerors of England showed to the Anglo-Saxon residents of the soil. Meanwhile it is well that foreign powers should, at this particular moment, when treaty revision is again being pushed forward, be afforded this little insight into the working of the new Criminal Code, of which we have heard so much.

The following is the judgment:—

The editor and publisher of the *Nohi Nippo*, agreed with one TERUKICHI that the latter should write an article entited "the first anniversary of the Promulgation of the Constitution," which appeared on the 11th February in No. 4 of the *Daishi Nohi Nippo*, and was to the following effect:—"Old Japan was a State in which the chief power was centred in the strongest individuals, and was a deformed body which could not be called a properly constituted state. This deformed body acted in a self-willed way so that the people were very much affected and it was the enemy of past generations. Any person knowing the conditions ruling at that time, should not be so foolish as to celebrate the foundation of such a state, and to all those who do so we say they are similar to a man who prays that he may sink in servitude, with no desire to rise from that condition. . . . . Is not the flag which is fluttering over our doors a sign that we are slaves as of old, as in this way is the foundation of the kingdom of JIMMU TENNO celebrated. . . . If so we can only laugh at their foolishness. . . . The date of the foundation of Old Japan is not a day of congratulation for us. Yes, it is a gladsome day, but for the Imperial House alone. The State has nothing to do with it." The above statements are recognized as being disrespectful to JIMMU TENNO and his successors, including the present Emperor. On referring to law it is found that this offence is punishable under Art. 104 of the Penal Code. (Art. 104 reads as follows: When two or more individuals have taken a direct part in the execution of an offence, each of them is considered as equally guilty, and punishable with the ordinary penalty for such offence; they are also punishable under the first section of Art 117 and Art. 120 of the Penal Code. Art. 117 provides that every rude act committed against their Imperial Majesties or against the Crown Prince, shall be punished with imprisonment with hard labour for a period of not less than three months and not more than two years, together with a fine of from *yen* 20 to *yen* 200. Art. 120 is to the effect that in all cases in which a correctional fine is imposed, for an offence foreseen in the present chapter, the offender, in addition to this, shall be placed under police surveillance during a period extending from six months to two years). Therefore TERUKICHI shall be sentenced to imprisonment with hard labour for a period of four years, to pay a correctional fine of *yen* 150, and on the expiry of his term to be under police surveillance for two years, under the section providing imprisonment with hard labour for from three months to five years, and a correctional fine of from *yen* 20 to *yen* 200, besides police surveillance extending from six months to two years. The other two were each sentenced to four years' imprisomment, to pay a fine of *yen* 100 and to be under police surveillance for one year and a half.

With reference to the above, the *Nippon* remarks that they have nothing much to say regarding the violent and improper statements of the *Nohi Nippo*, except that the writer of the article in question must be mad. Such opinions are the outcome of misunderstanding and a superficial knowledge of the rights of man, which is a sophistry that has grown out of the French Revolution. Enlightened men of the present time do not think it worth their while to refute it; although there are some extenuating circumstances for such an idea being prevalent in France, it being a reaction to the despotism of the nobles and clergy for several hundred years. But those who hold such an opinion in this regulated and well-managed country in reference to the relations existing between the governing and governed, may be classed in the same category as the offenders during the period of the Revolution. Not only is such an opinion disrespectful to the Imperial House, but it is a sophistry which is injurious to the organization and uniformity of the country. Those who do not act in accordance with the provisions of the Constitution are the public enemies of the nation and of the dignity of the Imperial House, the obedience of the people being the spirit of the Constitution, and those who advocate such opinions do not understand its spirit. One who jumps at the conclusion that a monarchy is a despotic government, will also be liable to think that liberty should go hand in hand with republicanism. Such a mistaken notion was advocated by ignorant persons some ten years ago, but opinions have undergone a change since then, and such opinions are no longer admissable, therefore the editor of the *Nohi Nippo* may be styled a man behind the times. Civilized society is complex, so that if anything is argued through a superficial knowledge, mistakes are sure to be made.

Enclosure 3 with No. 109.

The Japan Daily Mail.

Yokohama, Thursday, March 20, 1890.

PUNISHMENTS UNDER THE PRESS LAWS.

It appears that the editor and publisher of a journal called the *Nohi Nippo*, which circulates in Gifu Prefecture, have been sentenced to a long term of imprisonment—four and a half years—for inserting matter calculated to bring contempt upon the Imperial House of Japan. We have not seen the article which entailed such serious consequences, but Tokyo newspapers say that the Emperor JIMMU, the supposed founder of the Imperial line, was taken as the immediate object of ridicule by the offending print, the celebrations connected with his anniversary being described as virtual expressions of desire to re-enter a state of slavery. When we remember the degree of reverence in which the Throne is held in Japan, and when we further remember that it constitutes the one stable basis of Government amid kaleidoscopic changes of all descriptions, we can scarcely be surprised if the law intervenes strongly to protect it against contumely and disrespect. Neither are we surprised that this sentence of the Gifu Court should have evoked the usual adverse criticism from the local English press of Yokohama. The good old rule of hearing both sides of a question before pronouncing judgment, does not receive even the most shadowy semblance of respect at the hands of certain foreign journalists in Japan. In this particular case the papers criticising the conduct of the Authorities do not pretend to possess any accurate knowledge of the offence committed. They have not so much as heard precisely what constituted the act of contumely, what language was used by the offending journal, or how far the seeming attack upon the ancestor of the Imperial House was really directed against the present occupant of the Throne. The commonest principles of justice required that information should have been sought and obtained on all these points before venturing to condemn the decision pronounced by the Gifu Court—a decision, be it observed, against which the condemned men have the right of appeal to the highest judicial authorities in the empire. The principles of justice have not the smallest weight apparently with critics in such matters. It is enough to know that the immediate subject of the contumelious utterances was the Emperor JIMMU, a potentate who reigned centuries ago, and that a heavy sentence was pronounced against the offenders. On the strength of these fragments of information the proceeding of the court is denounced as "absurd," "monstrous," "outrageous," and an example of "brutal harshness." But to us it seems that such epithets apply with much greater truth to the conduct of critics who not only jump to a conclusion without any exact knowledge of premises, but do not hesitate to publicly parade their contempt for the dictates of fairness where the action of a Japanese Court is in question. It is of course evident that the memory of a sovereign who reigned twenty-five hundred years ago would not seem worthy of very tender treatment in any Anglo-Saxon community. Anglo-Saxons do not worship at the cenotaphs of their ancestors. Anglo-Saxon rulers do not maintain within the precincts of their palaces costly chapels for the solemn conduct of such worship. Anglo-Saxon officials are not required to offer incense and repeat formulæ of prayer in those chapels at fixed seasons or on special occasions. And Anglo-Saxon nations do not believe in the divine ancestry of their sovereigns, or regard the reverence that encircles the Throne as the very foundation of administrative stability. It is exceedingly difficult for Englishmen to estimate the utterances of the Gifu journal as Japanese doubtless estimate them, and it is assuredly impossible to arrive at anything like a just estimate, until the language actually employed by the erring newspaper and all the other facts of the case are ascertained. Whether the punishment inflicted was excessive or whether it was reasonable, we have not the least idea. Our contention is simply that no newspaper is justified in applying such terms as "absurd," "monstrous," "outrageous," and "brutal" to the judgment of a court of law until the facts of the case criticised are known; and that no newspaper published in Europe or America would venture to parade its own partiality, and its contempt for the judicial tribunals of the country where it circulates, by criticism so plainly one-sided and reckless. The performance is of a piece with the moral drawn, namely, that judging by this Gifu case, "the career of the foreign press in

Japan would be brought to a very abrupt end" if it could not "claim extraterritorial privileges." We have not before heard it seriously contended that one of the "privileges" conferred upon foreign residents by extraterritoriality is the right of uttering and circulating with impunity matter so offensive to the laws of the land that its publication by a Japanese entails a sentence of four years' imprisonment. We have never, we say, heard such a creed openly formulated, though we are aware that its acceptance often seems to influence the action of foreigners in Japan. If any ordinarily fair-minded Englishman were asked to define the purpose of extraterritoriality, he would say that it is intended to guarantee him against the processes of Japanese criminal laws, not that it entitles him to violate those laws with impunity. And he would further say that if the privilege of publication and circulation in Japan be enjoyed by English newspapers, they are bound to comply with the conditions prescribed by the Japanese Authorities for the regulation of all newspapers circulating in the empire, conditions which are deemed essential to the preservation of public peace and good order. It is ridiculous to pretend that without the privilege of defying Japanese law the career of the foreign press in Japan would be "brought to an abrupt end." The existence of the foreign press does not depend upon the exercise and enjoyment of any such disgraceful license. It is not a vital necessity that the foreign press should be permitted to publish contumelious attacks upon the memory of deceased Japanese sovereigns, or to indulge in seditious rudeness for which Japanese editors would be condemned to fine and imprisonment. The wanton absurdity and shamelessness of such a contention supply a very fair guage of the prejudice still surviving in some quarters. Happily it is a rapidly diminishing quantity. The Englishman's innate sense of fairness is steadily asserting itself, and even the most obstinately conservative are learning to appreciate that circumstances alter cases, and that civilized peoples owe to the customs and institutions of others something of the respect and consideration which they claim for their own. Still we are startled from time to time by sudden outcroppings of the old mood, and by unexpected evidences of readiness to accept without question every tale injurious to the reputation of Japanese institutions. It suffices, for example, that a condemned thief should trump up a story of having been tortured by the police into confessing his crime. His account is unhesitatingly received and gravely published without the smallest attempt at verification. Nay there are folks so fatuous and illogical that the mere failure of the Authorities to address official contradictions of such canards to the journals pubblishing them, is regarded as strong verification. Imagine the British Government stepping down to vindicate its reputation in the columns of an obscure newspaper, published in a foreign language for the benefit of a little foreign community residing at some sea-port town in the British empire! And imagine its failure to resort to such a means of defence being quoted as a tacit admission of guilt! It is incredible that grown men should solemnly abandon themselves to prejudice and arbitrariness so shallow and egregious, and still more incredible that, while wearing such qualities on their sleeves, they should expect to be welcomed and petted by the victims of their unfairness and caprice.

DEPARTMENT OF STATE
APR 25 1890
RECEIVED.

DIPLOMATIC BUREAU.
APR 26 1890

No. 110.

Legation of the United States.
Tokio, Japan, March 26, 1890.

ASSISTANT SECRETARY.
APR 26 1890

I send and approve Mr Swift's
desire to prevent and remove any misconception
as to the attitude of the United States, which is, as it
ever has been, one of cordial
friendship and sincere sympathy for the
success of the efforts Japan is making toward
liberal and political measures of self government.

Mr. Swift
To the Secretary of State.

Subject:
Excerpt from Japanese Paper
Concerning Changed Relations
with the United States.

No. 110. Legation of the United States,
Tokio, Japan, March 26, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D. C.

Sir:

I have the honor to transmit herewith an excerpt from the Japan Herald of the 22d. instant, publishing an article translated from the "Kokumin" Shimbun, a native newspaper of Tokio, of good standing, concerning the supposed relations between the United States and Japan. The "Kokumin" as you will observe, claims to have ascertained for a fact that, while not actually hostile, the United States

States does not entertain the same partiality towards Japan as formerly and attributes the change to the fact that the Democrats are not power in office and that the Secretary of State for Foreign Affairs "is not the gentle and courteous Mr. Bayard, but Mr. Blaine, who is a veteran of a very different type."

From this it seems to be probable that the fact of the present Administration's securing Congress to accept the Treaty of February 20, 1889, without important modifications, which fact was made known to the Foreign Office and to the

Diplomatic

Diplomatic Corps on the 26th of last month, has now found or is finding its way to the knowledge of the Japanese press.

That a Japanese journalist, knowing little or nothing of the United States, its government or people, should think that a demand made by the Executive for important modifications in a treaty partially agreed upon between the two countries, could only result from a feeling of hostility towards Japan and that the modifications must necessarily be to her serious prejudice, is perhaps no more than natural.

In this connection I deem it

it proper to pay attention to
examining the Treaty and soon
after my arrival at this Capital,
I reached the conclusion that
it had been concluded as to
signatures hurriedly at the close
of the late administration and
would probably require certain
modifications before becoming a
finality. I did not, however,
think the modifications were
likely to be such as would prove
prejudicial either to the true interests
or the just susceptibilities of Japan
and so took care to express myself
upon all suitable and proper
occasions. And both before and
since the fact was made known
that modifications to the Treaty
would

would be required, I have used my best efforts to prevent the notion obtaining lodgment anywhere that a change of feeling towards Japan had occurred on the part of my Government.

I have the honor to be
Sir,
Your obedient servant
John F. Swift

Enclosure: Excerpt from Japan Herald of March 22d., 1890.

Enclosure with No. 110.

The Japan Daily Herald.
Saturday, 22nd. March, 1890.

UNEXPECTED difficulties, says the *Kokumin Shimbun*, are showing signs of cropping up in our diplomatic relations with the United States. Up to the present Great Britain and France were considered to be the only Powers that required any diplomacy on our part to overcome, the objections of such countries as Italy in our opinion not counting for much, while the United States was looked upon as a friendly and upright neighbour. But since the attempted revision of the treaties last year, our diplomatic relations with that country have imperceptibly undergone a change, and the United States, in which we placed the most implicit trust and confidence in view of our former close and cordial relationship, now threaten to become one of the chief stumbling blocks in our path. This is a phenomenon which should not be allowed to pass lightly by the nation. Our relations with the U. S. Government have been very simple, no intimate alliance existing between the Imperial Palace and the White House, but the two peoples have been more closely connected in the matter of trade than was the case with other powers. Of our total exports in 1888—*yen* 65,705,510—*yen* 23,475,807, equal to about one-third of the total, were sent to the United States. The foreigners who do the most active work in our intellectual world are Americans. In the two diplomatic negotiations relative to the revision of the treaties, the United States showed her good feeling towards us in a more substantial way than the other powers; besides which, she was the country which had always bestowed the greatest praise upon us both through the medium of the Press and otherwise. Now, however, this feeling seems to have undergone a change, and though she may not be said to be hostile to us, there is no doubt that she does not entertain the same partiality for us. This opinion, given by a friend of ours, seems to be based on facts. Now the question arises, is this due to our present diplomatic policy or what? We know very little, as a matter of fact, of how the case stands, but from what we have been enabled to gather, we believe our relations with that country are not so cordial as heretofore or as they should be. We wonder how this has been brought about—do they think us untrustworthy? We do not think so, but place it to the party in power. The Democrats are not now in office, and the Secretary of State for Foreign Affairs is not the gentle and courteous Mr. BAYARD, but Mr. BLAINE, who is a veteran of quite another type. Our position now is very hard indeed, seeing what sort of a man we have to deal with at such a momentous period.

Kickhoefer

DEPARTMENT OF STATE
MAY 5 1890
RECEIVED.

DIPLOMATIC BUREAU
MAY 6 1890

Legation of the United States,
Yokio, Japan, March 30, 1890

Mr. Gardiner
To the Secretary of State.

Subject:
Duplicate of Loss by
Exchange Account for
Quarter ended Dec. 31, 1889.

Legation of the United States,
Tokio, Japan, March 20, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to enclose herewith the duplicate of my account for Loss by Exchange on drafts in Messrs. Morton, Rose & Co., for salary, for the quarter ended December 31st, 1889.

I have the honor to be,
Sir,
Your obedient servant,
W. P. Gardiner
Second Secretary of Legation.

Kiechhofer

TMENT OF STATE
MAY 5 1890
FCEIVED.

DIPLOMATIC BUREAU.
MAY 6 1890

Legation of the United States.
Tokio, Japan April 1, 1890

Mr. Gardiner
To the Secretary of State.

Subject:
Salary Account for Quarter
ended March 31st., 1890.

Legation of the United States,
Tokio, Japan, April 1, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to enclose herewith my account for salary for the quarter ended March 31st, 1890, covering drafts on Messrs. Morton, Rose & Co., London, for £450.00

I have the honor to be,
Sir,
Your obedient servant,
W. R. Gardiner
Second Secretary of Legation.

TMENT OF STATE
MAY 5 1890
ECEIVED.

DIPLOMATIC BUREAU.
MAY 6 1890

Legation of the United States,
Tokio, Japan, April 1, 1890.

Mr. Gardiner
To the Secretary of State.

Subject:
Account for Loss by Exchange
for Quarter ended March 31, 1890

Legation of the United States,
Tokio, Japan, April 1, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to enclose herewith my account for the quarter ended March 31st, 1890, for Loss by Exchange on my drafts on Messrs. Morton, Rose & Co., London, for salary for the said quarter.

I have the honor to be,
Sir,
Your obedient servant,
W. R. Gardiner Jr.
Second Secretary of Legation

TMENT OF STATE
MAY 5 1890
ECEIVED.

DIPLOMATIC BUREAU.
MAY 7 1890

2 cop
Inclosure
(Paper)

No. 111.

ASSISTANT SECRETARY
to Secy of War
of Navy
Military Bureaux of Intelligence
MAY 6 1890

Legation of the United States,
Tokio, Japan, April 5, 1890.

To ask commending Mr Swift's very full and interesting report.

Mr. Swift

To the Secretary of State.

Subject:

Spring Maneuvers of Japanese Army and Navy at Nagoya.

No. 141.

Legation of the United States.
Tokio, Japan, April 6, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to apprise you of the fact that I have been absent from Tokio for a period of six days beginning with the 30th. ultimo and ending the 4th. instant. This time was occupied in going to, coming from, and whilst there witnessing a series of military and naval maneuvers and exercises of H. I. J. M.

Land

land and sea forces, ending with a grand review of troops, covering four days of operations within the above period, carried on at and in the immediate vicinity of a large city called Nagoya on the eastern coast of Japan and about 235 miles in a southerly direction from the Capital.

All the colleagues, like myself, were invited by direction of the Emperor and, with two or three exceptions, all attended. The invitations, however, so far as the Diplomatic Body was concerned, were limited to Chiefs of Missions, except in case of Legations having

Military

Military Attachés [illegible] much. Attachés were also invited. The utmost pains were taken by the officers of H. I. J. M's Household Department to make our visit enjoyable. Every possible provision was made for our comfort and the officers having the matter in charge as well, in fact, as all with whom we were brought in contact, from the Emperor down, were courteous and polite to a degree difficult to describe, but most delightful to enjoy. A large and commodious Japanese inn was fitted up in European style for our accommodation with the electric

illumination light specially introduced for the occasion. Here an excellent table was served and every day from twenty to forty people, including three Imperial Princes, the entire Cabinet, the Generals of the Army and the Foreign Ministers present, sat down and dined together.

The fact that this is the first time, at least in Japan, that the Diplomatic Body has been invited to witness these manoeuvres and displays of force renders it not improbable that the Government are of the opinion that the Army and Navy have now reached a point

point of completeness in numbers, equipments and discipline, that they can with benefit to the prestige of the country, expose them to the Powers and boldly challenge criticism. Not having, myself, any military knowledge beyond that obtained by having to some extent travelled in Europe with more or less opportunity to witness parades and reviews of troops, but except during the Franco-Prussian war chiefly in time of peace, my opinions of what I saw can be of little or no technical value. But it scarcely requires Professional skill to discover that Japan has made very considerable progress in creating both an

Army

Army and Navy modelled upon European systems of organization and discipline. And the recent manoeuvres about Nagoya were well calculated to show to the best advantage the progress that has actually been made. The entire affair was laid out so that the operations should be conducted as in a genuine state of war, the general outlines of which alone were prearranged. The scheme of manoeuvres and sham battles assumed that an alliance against Japan had been formed between two foreign Powers for the conquest of the country. That these allied forces, with a powerful fleet of war-ships

war-ships dominated the sea, under the protection of which fleet, an army of invasion had been disembarked on the eastern coast, off Nagoya. That other hostile vessels-of-war menaced all the prominent cities of the Empire, from Hakodate, on the north, to Nagasaki, on the south. That for defense the Japanese army had completed its mobilization in its various garrisons, while the navy was concentrated in certain protected harbors, and the merchant marine, under the protection of such harbor defenses, were generally anchored in the same ports. The defenses of these ports were assumed.

assumed to be completely organ-
-ized. The invading army,
said the schema of operations, had
obtained possession of the railroads
south of Nagoya on the Osaka
side, while the army of defense
held these leading from Tokio
south, and from there approached
to repel the invaders.

The 31st. of March was
taken up with a naval sham-
battle which I did not have the
opportunity to witness. But I
am able to inform you that the
fleet of defense contained no less than six
powerful iron or steel men-of-
-war built and armed in Europe
upon the best modern plans, —
with a number of torpedo boats;

while

while that of attack had nine cruisers or gun-boats of similar class and quality, among which I noticed the "Naniwa," after the model and lines of which the U. S. cruiser "Charleston," recently constructed at San Francisco, is said to have been copied. The fleet of attack was accompanied by three transports.

The sham fights and other manoeuvres at sea which took place on Monday, according to information received from Captain Ingalls, a British naval officer of high standing who was present and saw them, were highly creditable to both ships and crews and showed that

that at least so far as operating the ships and guns was concerned the Japanese have but little, if anything to learn from western nations.

The land operations were carried on between two opposing armies embracing on the actual field of battle, in the aggregate, about 25,000 troops of various arms of the service, including artillery, cavalry and infantry. The opposing forces moved forward over the country as in actual war, the fight commencing whenever contact was felt at any point. I need hardly call attention to the fact that more troops were actually engaged in

there

these maneuvers there are many contained in the entire United States Army. As for the actual material and equipment, personal bearing, appearance and movement of the men and officers of the Japanese army at Nagoya I will only say that to the best of my judgment are quite in the highest degree complete, effective and soldierly, according to the best European standards. Though at present I believe much foreign military instructors as remain in Japanese service are mostly Germans; the dress and equipment of the Japanese Army are strongly marked by earlier French influence. The troops

troops dress much as French soldiers dress. They are well clothed in serviceable uniforms with good, substantial leather shoes made on the march last. a neatly constructed knap sack, with a record pair strapped in sight. The dress of all branches of the service as to material and make and as to color and style of trimmings is substantially the same throughout and is well calculated to combine neatness for the wearer, and at the same time to inspire the soldier wearing it with a proper and manly pride in his uniform and profession.

Soldierly bearing is encouraged

here

here as in France by the private soldiers of all arms of the service being allowed, whether on or off duty, to wear this side arm, the sword-bayonet of the infantry, being specially fitted with a scabbard and belt for that purpose. The foot soldiers here abroad, walking the streets of Tokio would look quite, step and bearing fairly well in Paris. The weapon of the Japanese foot soldier is a rifle invented in Japan by Colonel Murata, is very similar to the Henry Martini and is considered fully equal the other best breach-loading guns in use in Europe and America. From the maneuvers at Nagoya

ordinary

ordinary black powder was generally used, but the Government is understood to have a considerable number, the nature of which they are peculiarly guarding, & which they claim to be an ancient secret. The artillery, of which a relatively sufficient force of field batteries were engaged, was all of the best and latest pattern of brass, breech-loading and rapid-firing guns, and, so far as I could see, well served. On one occasion during the Shan battle, I stood in the Emperor's suite, in the bows of a field which had been excavated for a battery of ten (breech-loading) mountain guns, when an order was

given

given to replace them with a heavier number of field ordnance. The small guns were transferred to position; equipped with the necessary equipment and ammunition for the guns of the field park, provided a battery of 4 light field guns & twelve pounder howitzers, the wheels & gun shields complete, were placed in position and given instructions how to load the charge being made with a degree of expedition and precision of movement that is thought admirable. Not knowing at first the meaning of the movement. It did not take long to perceive; but thought that which I could not learn from the executions of fire of from the light guns

IVIA

guns take heavy ones open it again from the enemies flank.

The remainder arm of the service is the cavalry one division to consist principally with that of other countries was the cavalry, this mainly because of the smallness of the horses which most of the native breed. The Japanese horse though strong and possessing many good points, is too small for a good cavalry horse, besides horses would take a month to train against be difficult to manage with the bridle. There are facts that can only be remedied by improving the breed by judicious crossing which will

take

attention

attentions. The defense has the first
fields and offensive strategies when it
to the country. The roads through
them are few and usually bad. In
In fact, most of the land is almost
covered with water during the
any period of heavy rains. It would
most easily succeed that when used
for wire entanglements. It is absolutely
impossible for artillery or cavalry
to march except by single roads
absolutely impassable roads
and the same is practically true
as to infantry. To displace a
force on its march from one road
to any other would require enormous
almost three days, during
by wire entanglements, which would
give to their rear at every step,

to

to keep the sides of the irrigating canals and ditches that ground unoccupied, is substantially out of the question. It follows that the defensive force holding the high ground where the road leaves the rice land, has a position of immense advantage.

On the first day the attacking army encountered no opposition to push along one of these dykes as against the defense thus posted. But after having advanced, at double-quick, along the road, quite up to the line of defense they were ordered by the umpire, H. I. H. Prince Arisugawa, to retire, he having

Le

having, as it proved to me, at
very greatly decided that in
actual battle they must have
been either forced back or
annihilated by the superior
fist at the end.

Considered as a retreat, the
manœuvres and display of force
were very creditable and must
have been very satisfactory to
the Emperor and his Cabinet
who saw all on the ground.

In a personal interview
held on the field with the
various Foreign Ministers, the
Emperor asked the opinion of
each of them upon all that had
occurred. What the others said
I do not know, but for myself

I sincerely expressed my
admiration for his army, its
equipment, discipline and conduct.

That the splendid showing of
military and naval strength and
discipline manifested on this
occasion will tend to render
H. I. J. M's. Government more
firm in their ~~overtures~~ for
modifications of existing Treaties
upon points with which they
have long been dissatisfied,
seems to me not improbable.

I have the honor to be
Sir,
Your obedient servant
John F. Swift

Dickshoef

TMENT OF STATE
MAY 5 1890
ECEIVED.

DIPLOMATIC BUREAU.
MAY 6 1890

No. 112.

Legation of the United States.
Tokio Japan, April 12, 1890

Mr. Swift.
To the Secretary of State.

Subject-

Accounts for the quarter Ended March 31, 1890, and duplicate Statement of account for rent of Legation buildings and grounds for the year Ended March 15, 1890.

and grounds, for the year
Ended March 15th. 1890.

I have the honor to be
Sir.
Your obedient servant.
John F. Swift

Enclosure:
Account as above

DEPARTMENT OF STATE
MAY 5 1890
RECEIVED.

DIPLOMATIC BUREAU
MAY 6 1890

Mr. Hitchcock

United States Legation
Tōkyō, Japan April 14th 1890.

W. N. Whitney Interpreter
To The Secretary of State

Subject.
Statement of Salary account

United States Legation

Tōkyō Japan, April 14th 1890

Hon. Jas. G. Blaine,

Secretary of State,

Washington.

Sir:

Herewith I have the honor to transmit my statement of Salary account for the quarter ended March 31st last.

I have the honor to be

Sir

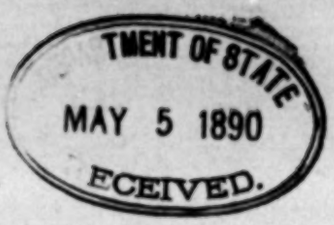
Your obedient Servant

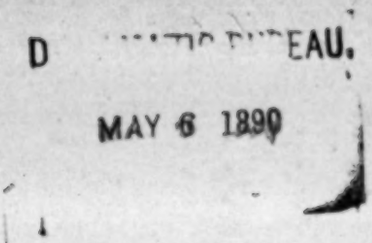
Willis Norton Whitney

Interpreter of Legation

Enclosure - Statement of Salary account for quarter ended March 31st 1890.

Fairchild for





Legation of the United States.
Tokio Japan. April 14. 1890.

Mr. Dun.

To the Secretary of State.

Subject:

Accounts for the quarter Ended
March 31. 1890.

DIPLOMATIC BUREAU.
MAY 10 1890

DEPARTMENT OF STATE
MAY 5 1890
RECEIVED.

2d ASSISTANT SECRETARY.
Ack by subject & file.
aab
MAY 9 1890

12 May

No 113.

Legation of the United States,
Tokio, Japan, April 14, 1890.

Mr. Swift
To the Secretary of State.

Subject:
Murder of Rev. J. A. Large,
with Remarks on the Criminal
Laws of Japan.

No. 113.

Legation of the United States,
Paris, France, April 14, 1890

The Hon. James G. Blaine,
Secretary of State,
Washington, D.C.,

Sir:

The murder of Rev. T.A. Large, a Canadian missionary and teacher of the highest character and the wounding of his wife, as is generally thought by burglars, which occurred in this city on the night of the 4th. instant, has greatly shocked this community of all classes and nationalities and in many aspects is worthy of grave attention.

Mr.

Mr. Large was connected with the Canadian Methodist Church and its Mission in Japan and was, at the time of his death, assistant instructor in Divinity in the Academy established by that Mission at Tokiwazawa, Azabu, a quarter of Tokio. This quarter, where Mr. Large lived with his family, is quite outside of and at considerable distance from the Foreign settlement at Tsukiji.

While it may be necessary to decide upon the matter in hand, yet it may be well of place to remind you that so far as treaty-rights are concerned no foreigners except

Diplomatic

Diplomatic representatives and their necessary following, can live in any part of Tokio outside of the foreign concession or settlement at Tsukiji. When they leave Yokohama it is at the actual or nominal displeasure or disapproval of Japanese. It was there that Mr. Long and family lived at Azabu. They lived in the Chapel building along with other teachers while part of the students dormitories was situated on the same ground, and just across a narrow passage-way from their bedrooms.

Shortly after 11 o'clock P.M. on the 4th instant,

Mrs.

Mrs. Large was awakened by a noise in the room as she was sleeping with her husband and sitting up in bed saw two men in the room armed with what she took to be bamboo sticks, but which proved to be Japanese swords. The men were masks. About the time of Mrs. Large's awaking Mr. Large also sat up from bed. Almost instantly he was struck by one or both of the men. The room was small and the conflict, if such it may be called, between so armed, unarmed man was for a moment struggling for his life with two expert swordsmen armed with razor-edged

rage of Edgar Lakeman was short and decisive. Without going into unnecessary details it is enough to say that in a very short time (probably less than a minute) the unfortunate gentleman had received eleven wounds, any one of which, if not two in the throat and head, must have proved speedily fatal, and was lying dead in the narrow passage way just outside the door of his bed room.

In the meantime Mrs. Lange had also got out of bed and was doing what she could to frantically for her husband and it was not until after the murderers

murderess testified that she discovered that the knife which was in the face and chest two of the fingers severed from her right hands.

The assailants then escaped and have not yet been arrested. The prevailing opinion up to this time is, that it was a case of ordinary burglary and that the murder was an accident growing out of the fear on the part of the burglars of being discovered.

It is manifest that the disturbances of Japan are daily moving by the steering demons and are making extraordinary exertions to arrest the perpetrators.

M

It is said, the police have never in any case been so active & zealous, as they are in pursuit of the murderers of Mr Lange. I have every reason to believe this to be in accordance with the fact. The police system in Japan, as well for the prevention of crime, and the apprehension of criminals, is not in my opinion inferior to any in the world. Indeed, it is probably the most perfect in existence. And considering the great efforts the authorities are putting forth in this case, it seems almost impossible for the murderers of Mr Lange

to

to escape. I have already in my former dispatches called your attention to the extreme frequency of horse-stealing and stealing from dwelling houses, that rises any approach to horse-stealing in this country. Within the last few days I have had occasion additional instances which have occurred within a very recent period. The facts are in complaints before Andrew Jackson, Esquire, a resident of this city within seven miles of the Texas line, that the Texas stock has been stolen by a band within the last year is exceptional. This is perhaps an exaggeration but

heads they resemble in a certain measure startlings and significant, and I cannot refrain from remarking upon what seems to me to be the carrying out of designs my conclusions. But it is further for me to mention that the surprising affair that has just occurred in the first instance within my knowledge within the limits of a foreign town where I am domiciliated, and the events accompanied by an offer of violence to the inmates. I am informed, however, that professional lawyers do exist in Japan, that it is their custom to carry on business with their clients in many instances where they have met with

which resistance is dependent
Kanaka; they have almost entirely
cut down the sugar cane
- Kalakaua, who is said to be
timidity, or misfortune to
interfere with their plans.
From my observation of the
Japanese character, I am not
disposed to attribute the
success of this class of immi-
gration entirely to and
to the [illegible] except
interested in the prosperity of
the people. It does, as it seems
to me, a people has disposed by
taste or disposition to be criminals,
than the Japanese, can hardly
be found anywhere. I am
therefore inclined to look for
the

the recent increase of criminal outrages into Europeans to other causes ... and ... to lead rapidly more and more confirmed in the impression ... created on the occasion of this Legation being attacked and robbed in July last, namely, that the abrupt change of the criminal laws, especially as to the punishments of criminals, occasioned by the adoption of a new European criminal code, is chiefly at fault. This I found as I did in that case, that a man of 20 years of age who had been sent to this Legation in the dead hour of night, ...

penetrated

penitentiaries in any other civilized country, in case of robbing the house, was an execution set off with 60 days imprisonment, in a prison as comfortable as any in America, considering the habits and manners of Japan, & one to the construction that a previous legislature placed upon the law by somebody? Nor do I think the Japanese lawmakers alone, or even principally, are to be blamed. To the best of my belief the new criminal code is not the result of the carefully considered wisdom and deliberate judgment of the statesmen and rulers of Japan, as best calculated to

reform

reforms crime in their courts, but has rather been yielded up them to what they have believed to be demanded was the views of European and American opinion for less severe punishments and what in their estimation would be termed more humane treatment of criminals. That these changes have been made as a means of propitiating such opinion appears a blind and unnecessary statement believed by natives that Europeans in America with respect to how Japan ought to treat persons convicted of crime. The fact that the statesmen and law makers of Japan have felt compelled to yield to this

unprepared demand is not the least perplexing of many delicate phases of the peculiar position this country occupies in her foreign relations and one to which I beg to call your attention as thoroughly bearing upon future negotiations.

The statesmen at the head of the Imperial Government for many years past have regarded the abrogation of consular jurisdiction as a matter of fundamental importance overshadowing every other political consideration. In all overtures looking to that result, at least fair words, if nothing more, have been met

Page

by the claims, examples and
others, that the criminal
laws of Japan were so severe
and were cruel, that Europeans
and Americans ought not to
be subjected to their operation.
That they were severe as
compared to the present laws
of Europe and America, there
is no question. They were
probably equal in severity
to the criminal laws of
England and the Continent
of Europe in force at the
beginning of the present
century. There seems to be
no doubt that the Japanese
under their ancient juris-
prudence punished crime
with

with great hesitation. Claims that the Capitulary system was in contravention of the sovereign rights of nations and more particularly with regard to the exercise of judicial sovereignty existed at least until recently.

Bearing in mind that Japanese statesmen had striven to obviate the objections on the part of foreign Powers to the surrender of extra-territorial rights across the head of submitting their nationals to these European laws, it is easy to see why the great and drastic changes have been brought into. It is perhaps

next

regard to the greatly ~~[illegible]~~ advanced ~~[illegible]~~ of Japan, ~~[illegible]~~ their ~~[illegible]~~ to ~~[illegible]~~ themselves ~~[illegible]~~ that they had come to regard as ~~[illegible]~~ humiliations ~~[illegible]~~ should be found willing to ~~[illegible]~~ ~~[illegible]~~ compromise ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ such unprejudiced European ~~[illegible]~~ systems, ~~[illegible]~~ though they ~~[illegible]~~ themselves might ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ people and perhaps ~~[illegible]~~ ~~[illegible]~~ gradually allowing for the different ~~[illegible]~~ ~~[illegible]~~ which the two systems had grown up

Although ~~[illegible]~~ about the time when this idea was strongest there appeared upon the scene

a

a Professor of Paris by
name Boissonade de Fontarabie,
who was selected to lead Japan
out of the wilderness of barbarous
jurisprudence, and to settle her
in the promised land of judicial
and punitive
reform. He drafted and secured
the adoption of the most straight
codes, regulating crimes and
punishments, substituting the
tender, humane and merciful,
corrective and reformatory
principles now in vogue in America
and parts of Europe for the
severe and vindictive punishments
of old Japan. I do not understand
that the distinguished gentleman
had had any political or
legislative

legislative experience, either in his own country or elsewhere before being called upon to make laws for the Japanese. He had not been a law-giver, but only a law-teacher. It by no means overlooks the fact that at the beginning of the present century crime, at least in England, was considerably diminished by a reform in the criminal laws, which reform consisted mainly in a substantial reduction of penalties and that punishments were rendered decidedly less severe than before. But it do not understand that the great English lawyers and

Parliamentary

Parliamentary leaders have brought about such wise and judicious reforms and render the nation such glorious triumphs, [illegible] tended to the diminution of crime, or that the natural effect of gentle and humane treatment of criminals caused them to leave off their wicked courses!

On the contrary, I have always understood that towards the end of the 18th century it was found that crime had materially increased in Europe and especially in England, and that when the cause was inquired into it was discovered in the circumstance that the Christian world

would had become burdensome and
objectionable to such a degree that
the code, especially under
punishments established from
time to time by the magistrates, could no
longer be enforced. That justice
rebelled against such a cruel and
odious system was the result of
practice and feeling. It was found in
practice that when a multiplicity
of punishments of various offences
involved the death of the
accused the jury refused to
bring in the verdict. But
towards an acquittal practice
and that because of the
uncertainty, if not the
improbability of punishment,

crime

calamities which accompanied the
Meiji Restoration. Moreover,
effect, that the great reforms
in criminal law of Meiji era
were also largely brought on
the penalties down to a more
lenient rate than heretofore
punishments and regulations
enforced, resulting naturally,
in a temporary and noticeable
decrease of crime. But in
Japan this has not been the
case. No sentimental group
has been put in motion upon
criminal conduct by referring
to ancient. There are no groups
in Japan. No sentiment against
judicial cruelty was aroused
into a modification of harsh

and

and perverse laws. The people had always been taught to think that the robber and the burglar and even the thief, like the murderer, justly deserved death and they looked for and expected its infliction: and they stood contemptuously and witness punishments being inflicted upon criminals that in Europe and America would at any time in the 18th century have been considered intolerably cruel. In this altogether lovely land, in the Japanese Garden of Eden, instead of stately lions and elephants and rhinoceroses, and such like

and witness the [illegible]
re-crucifixion of [illegible]
this was completely [illegible]
Parisian audience of [illegible]
ladies and gentlemen in the
first instance, to [illegible]
and delight the spectacle of
Parisians being [illegible]
shrieked and [illegible]
pitch and [illegible]
amateur with [illegible]
-knives; through the [illegible]
[illegible] straightway, he and
suffering or able to [illegible]
high spirits from "well-[illegible]
windows overlooking the [illegible]
of execution. That the
Japanese will in time become
as sensitively humane as
Europeans

European & American, there is no reasonable doubt, that until they do it permit to make that, the Endangerments of their criminal Laws, should be cautiously and tentatively proceeded with.

That the universal penal laws of Justice, when vigorously enforced are, they undoubtedly, what in the old laws, meant in the nature of things. Laws had a powerful effect in the prevention of crime. Offences to them are [illegible] punishable. [illegible] conceives that [illegible] practicable. If [illegible] punishments were to be [illegible] they [illegible] of the [illegible] cases

be

of the rulers of China
for persecuting criminals so harshly

as

as they do. But it is quite possible that the actual statesmen who govern China are better judges of the whole case which they have to deal than the wisest and most intelligent outsider. This is equally true of the statesmen and lawgivers of Japan. Both nations strongly disputed to death that these enlightened men would have abandoned step a single step, even though they did their criminal laws had undergone [illegible] their entire revolution of being, as it seems to me they have done, quite influenced

by

[illegible] [illegible] [illegible] [

his away during summer while continuously creeping an eye out for a comfortable jail conducted on advanced humanitarian principles, for his Winter retreat, must be, at least, an agreeable thing for the criminal classes of Japan to contemplate if these be such as obtain.

Note, in this connection, please, that the prisons of this progressive country are now used up to their American prototypes and are at least unattractive as places of resort for poor people. At any rate, if what I hear of their cleanliness and comfort is correct, they can hardly fail

of

of offering a certain degree of temptation to the weaker part of people of this country, amongst whom there are many persons often hungry and who are compelled by necessity to purchase unsound & costly if not insufficient food. And while failed, as I am with the greatest admiration of the people of Japan of all classes, high and low, I must say that I cannot but see what this Government does under the advice of foreign and often interfering counsellors I am not surprised at any increase of crime but rather that

that the disease is not greater. If anything were needed to establish to my satisfaction the natural docility and tractability of the Japanese it would be to find that none of the very poor are ever tempted to relieve their wants by resorting to criminal practices.

But I will not continue the contrast of systems further. I have called the matter to your attention chiefly because of what I think to be its Diplomatic bearing as between Japan and the Treaty Powers.

That in the long run good will come of the Kumamoto, i.e. westernized system is altogether probable

favorable. Russia is also not
now in the least analogous
that change in the direction
of those general tendencies may
be forced upon the Japanese
Government that may, as to
Europe and America, seem
reactionary in tendency, that
neither will those unprecedented
& unavoidable by the state of
things [illegible]
at which I have the honor to be,
[illegible]
[illegible]
[illegible]
[illegible]

TMENT OF STATE
MAY 5 1890
ECEIVED.

2D ASSISTANT SECRETARY.
MAY 6 1890

Approve employment of a night watchman. Mr. Swift is instructed to ask it from the fund already allotted, which is understood to be sufficient to cover this charge.

DIPLOMATIC BUREAU.
MAY 7 1890

No. 114

Legation of the United States.

Tokio Japan. April 14. 1890.

Mr. Swift.

To the Secretary of State.

Subject.

Necessity of employing night-watchmen for Legation premises.

No. 114

Legation of the United States.
Tokio Japan, April 14. 1890.

Hon. James G. Blaine
Secretary of State,
Washington D.C.

Sir.

I have the honor to recommend and request that I may be allowed to employ and keep in constant attendance at this Legation a night-policeman at an expense for salary, uniform and equipment, not to exceed fifteen dollars a month, to be paid out of the Contingent fund.

In support of the request I will state that the danger from fire in

in this Capital is exceedingly great.
That the causes why fires are more to be
feared here than Elsewhere are, first:
that the city is constructed, almost
Exclusively, of wood of the lightest
and most inflammable quality.
Second, there is no adequate force
of fire Engines or means of Extinguish-
ing fires. Third: Earthquakes
are exceedingly frequent, resulting
whenever severe, in consequent
conflagrations.

In addition to the danger from
fire, the safety of the Legation
and its inmates from other
perils, incident to the actual
situation, renders the constant
attendance of an Efficient
night watchman indispensable.

I

I may also mention that the selection of the policeman from the old dominant or Samurai class, as well as his being uniformed and armed, are all necessary if he is to be of any practical benefit.

I have the honor to be

Sir,

Your obedient servant,

John Enright

Wickersham

MENT OF STATE
MAY 16 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAY 16 1890

Legation of the United States.
Tokio Japan April 25. 1890.

Mr. Dun.
To the Secretary of State.

Subject:
Duplicate statements of accounts
for the quarter ended March 31. 1890.

Legation of the United States.
Tokio Japan, April 25. 1890.

Hon. James G. Blaine
Secretary of State
Washington D.C.

Sir:

I have the honor to enclose herewith, duplicate statements of my accounts for the quarter ended March 31. 1890.

I have the honor to be
Sir.
Your obedient servant:
Edwin Dun.
Secretary of Legation.

Enclosures: As above.

DEPARTMENT OF STATE
MAY 16 1890
RECEIVED.
DIPLOMATIC BUREAU
MAY 16 1890
DIPLOMATIC BUREAU
MAY 16 1890

Mr. Report May 16. 1890 encls

No. 115

Ack'g rec'd & filed

Legation of the United States.
Tokio Japan, April 25, 1890.

Mr Swift:
To the Secretary of State

Subject-
Coinage of Japan, for 1889.

No. 115.

Legation of the United States,
Tokio Japan, April 25, 1890.

Hon. James G. Blaine,
Secretary of State
Washington D.C.

Sir:

In compliance with your Circular instruction dated December 18, 1889, I have caused to be prepared and have transmitted to the "Director of the Mint," Treasury Department- Washington, a report on the Coinage etc, of Japan for the Calendar year 1889.

I have the honor to be
Sir,
Your obedient-servant;

John A. Bingham

Schaeffer.

MENT OF STATE
MAY 16 1890
ECEIVED.

DIPLOMATIC BUREAU.
MAY 16 1890

No. 116.

Legation of the United States.
Tokio Japan. April 26. 1890.

Mr. Swift:
To the Secretary of State.

Subject:
Duplicate statements of accounts for the quarter ended March 31. 1890.

No. 116.

Legation of the United States,
Tokio Japan, April 25, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

I have the honor to enclose herewith, duplicate statements of my accounts for salary, for contingent Expenses and for loss by Exchange for the quarter ended March 31. 1890.

I have the honor to be
Sir.
Your obedient-servant
John Fairfield

Enclosures.
Duplicate Statements of Accounts, as above.

DEPARTMENT OF STATE
MAY 16 1890
RECEIVED.

DIPLOMATIC BUREAU.
MAY 16 1890

Legation of the United States.
Tokio, Japan, April 26, 1890.

Mr. Gardener
To the Secretary of State.

Subject:
Duplicate Accounts for
Quarter ended March 31,
1890.

Legation of the United States.
Tokio, Japan, April 20, 1890

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to enclose herewith duplicates of my statements of Account with the Government for Salary and for Loss by Exchange during the quarter closed March 31, 1890.

I have the honor to be,
Sir,
Your obedient servant,
W. E. Gardiner
Second Secretary of Legation

Enclosures:

Enclosures: Accounts as stated.

DIPLOMATIC BUREAU
JUN 11 1890

DEPARTMENT OF STATE
JUN 11 1890
RECEIVED.

2D ASSISTANT SECRETARY.
Ack by subject & file
JUN 11 1890

Mr Adler
Rec'd Hall
13 June

No. 117

Legation of the United States
Tokio, Japan, May 17, 1890

Mr. Dwight
To the Secretary of State.

Subject:
Assault on the Reverend
J. Summers.

No. 117

Legation of the United States,
Tokio, Japan, May 17th 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to enclose herewith for your information a number of clippings taken within the last few days from the Yokohama newspapers and relating to a regrettable occurrence of recent date which occurred to the Rev. J. Summers, an English missionary, school-master and head of a leading educational institution of this city. It seems that on the

the occasion of the return of His Imperial Majesty, the Emperor, from Nagoya and Kyoto, whither he went for the Military and Naval Manœuvres at the end of March and which return took place the afternoon of the 6th instant, Mr. Simmons, while driving from one part of Tokio to another, casually reached the street through which the Imperial cortege was at the moment passing. On perceiving what was taking place he stopped and turned his carriage aside - and, as he states, was about to pay the customary mark of respect to His Imperial Majesty by re- - moving his hat, when a mounted guard, believing or pretending to believe

believe that the conduct of Mr. Summers was not unprovoked, remaining his hat was through want of respect for the Empress Dowager, which it seems was then approaching; thereon him upon the head either with his staff, or the butt of some weapon, administering of severe but not dangerous blows, sufficient, however, to raise a lump over the Reverend gentleman's skull.

A day or two after the occurrence an officer of the Imperial Body Guard called at Mr. Summers' house with an apology which was promptly accepted by the Reverend gentleman, who at once declared that

that he should do nothing further about it. Such things seems great to have been satisfactory to a certain class of Japanese who insisted upon considering that the Emperor had been insulted with disrespect. Accordingly several of them have within the last few days forced themselves into that gentleman's house which is attached to his school in Tsuruji; at the same time making most violent demonstrations the particulars of which you will learn by reading the clippings of the papers I have the honor to inclose.

Mr. Summers is a gentleman

of

of respectable character of good manners, appearance and education. His age is between fifty and sixty years, the last twenty of which he has spent in Japan devoting himself to educational and missionary work. He has established and is now with his wife and daughters engaged in conducting at Tsukiji, which is the name of the foreign settlement at Tokio, a school for Japanese boys and girls. That the most guilty of any intentional disrespect towards H. I. M., the Empress Dowager, especially, or towards Japanese whomsoever, is not in the least probable. Yet this apparently insignificant incident would show at least

least for the present to have closed up this educational establishment and caused them to quit the country for a time, if not permanently.

It is understood that soon after the first demonstration of violence Mrs. Simmons considered it necessary to conceal herself on the above premises in a small house, or "go-down", and that he took an early opportunity to ensure safety by leaving Tokio and repairing to the foreign settlement at Yokohama.

It is also understood that he will leave Japan for England by the first available opportunity which will be by the P. & O. Steamer

steamer of the 16th. instant. Such facts as this writing, I regret that he has actually gone.

That a resident of this country of twenty years' standing, the head of a large family - he has a wife and I believe one son and seven daughters, wantonly engaged in assisting him in his school should consider it prudent to leave Jamaica for what would appear to the people of Europe or America to be so trivial a cause, is the circumstance and the misfortune that, in my opinion, justifies me in calling your attention to the incident. And what adds to the gravity of

the

the affair and deemed me to consider it as symptomatic of a condition of things existing in Japan, dangerous to the welfare and safety of the citizens of the United States there residing, as well as foreigners in general in the circumstances that, so far as I can judge, the consensus of opinion there is to the effect that in leaving Tokio the evil and danger do generally disappear; the Reverend Mr. Hammond acted with entire freedom and sound discretion. In this connection I deem it proper to say that there are some reasons for fearing that the killing of the Rev. Mr. Large, the facts

of

of certain communicated to Japan, as far as they were known, in May Nos. 1 & 3 of date the 14th of March and which at the time & commented upon according to the then received opinion as a homicide growing out of an ordinary attempt at robbery, was in fact simply a cold-blooded murder by assassins the special details of which are not easily probably never will be understood, outside of the band of Confederated assassins who perpetrated the deed whatever they may have been.

In this letter Theory be correct it would seem that foreigners engaged in educational work in Japan

Japan and especially missionaries are peculiarly liable to misrepresentation and to suffer the consequences of their aversion. And it would seem that length of residence and acquaintance with the people instead of diminishing rather adds to the hazards of the calling.

Mrs. Savage had been teaching in Japan for several years and was well known to her pupils and friends. The case is more remarkable from the fact of Mrs. Savage's

But the least astonishing feature in this curious business, as it strikes my mind, is the fact that I am unable to see

that

that the Mis-Government can be justly blamed as having been the cause. There is nothing to warrant the belief that they do not retain the same sympathies with the enemy as heretofore, but they have not shown. There is a growing demonstration on the part of the people partial to foreigners in Japan, a disposition to flaunt their sympathies in the face of the world, as patriotism, all of which is daily increasing, is, I regret to say, only too apparent.

In view of all the circumstances I have enumerated and remembering the approaching elections for members of Parliament, which

which are to take place at Tokyo, along with the ceremonies of Coronation itself, which are to be in November, and along with the international public exhibition which must attend both of these events, to awaken the development of the coming generations and determine with the latest advancement and safety for the safety of many countries as well as for the welfare and prosperity of Japan.

I have the honor to be,

Your obedient servant,

Enclosures: Clippings as above.

THE JAPAN GAZETTE.

YOKOHAMA, 18TH MAY, 1890.

THE AGITATION AGAINST THE REV. J. SUMMERS.

THE Englishman who does not feel strongly indignant at the continued harassment of the Rev. J. Summers, is not worthy of the name. And he is an ill-conditioned being who does not experience a feeling of commiseration for the unfortunate gentleman who has so unreasonably been threatened—the target at which Japanese impetuous passion, in all its inflamed rustle and fluster, has, during the last few days, been aimed. The gentleman who has been, so to speak hounded from Tokyo, may, in days to come, be taken as the substance of a very substantial argument against agreement to Japan's ambitious claims, and if the anti-Revisionites do adopt this as a plank in their platform, who can seriously complain, because it is only by the presence or immunity from such disturbing incidents that foreign powers will base their acquiescence or refusal of such radical changes as Japan desires. It probably might be unfair to use such occurrences as the Akasaka incident and its developments in the light we shadow, but still it is not wholly improper to build up a judgment from such circumstances as from time to time transpire. And we would not say that it is excessively or even moderately wrong for one to take such events as a text against the completion of the work Japan has so often tried to finish. May not they be like the tiny whiffs of smoke escaping through the crevices of a building to tell that a fire smoulders on placidly simply because the structure is closed to the fresh air? Open the windows, throw wide the doors, and the moody flames will flush into destructive paroxysms by reason of the receipt of the aiding influence they previously lacked. We do not say we should thus apply the Akasaka incident and its sequels, but the timids, the doubters, and the fearers may; and, therefore, Japan has deep cause to deplore, as we are sure all intelligent Japanese do, such like happenings, inasmuch as they may be accepted by some as indicative of Japanese unreason, of readiness to champ the bit, to flame and fume; and, therefore, as regards those with whom Japan is negotiating, the tendency is wholly backwards.

However, we will for the time being, leave this point, to revert to the subject proper of this article. In this issue we fully relate what has happened to Mr. Summers. The *resumé* entirely corroborates the previous statements we have made, and indeed goes beyond the information we had in our possession yesterday. It appears that a third visit has been paid to the unoffending victim, first of unjustifiable assault (which Mr. Summers says was not a "mistake," but deliberate) by a Government servant, and, subsequently, of deadly threat. For persistent virulence, continued manifestation of deadly intent, and consummate impudence, we cannot remember anything in relation to foreign residence in this country which equals this unfortunate incident. It was verily a satirical coincidence that the third gang of ruffians should yesterday force their way into Mr. Summers' house during the presence of a member of the British Legation, because that Legation—it is not the power it was in the days of Sir Harry Parkes—had refrained from helping Mr. Summers at the inception of his trouble. As we pointed out at the time, the subject was one demanding prompt action on the part of Mr. Fraser, the British Minister. He, however, thought very differently. Immediately after the occurrence, Mr. Summers wrote His Excellency regarding the assault, but the gentleman who is sent here to watch over British interests, to protect British subjects, merely responded "Oh, well, you know these things happen every day here," and implied his intention to do precisely what he has done—nothing.

Now we respectfully contend that the statement of the British Minister is incorrect, that under any circumstances it was a poor excuse for inaction, and that if we accept it as true it becomes positively absurd. Were it veracious to state that foreigners in Japan everyday suffer such indignity and assault as were accorded Mr. Summers, all the more necessary would it be for the Minister to display energy. It would be perfectly puerile to contend that, because burglaries are so frequent in Japan, the police authorities should retrograde into neutrality, yet such, as we take it, is the British Minister's line of argument. We are sure that Mr. Fraser came to Japan with the intention of conscientiously doing his duty, and, in a very quiet way, he may have tended the charge in his keeping; but, in this instance, we undoubtedly think his policy and the grounds of that policy have been such as to give birth to a feeling of temporary dissatisfaction in the minds of most Englishmen here. Why, the British Legation in no way aided Mr. Summers in securing protection. Indeed, he had difficulty in obtaining policemen, and we even believe he has to pay for them. No. 33-A Tsukiji would perhaps be as safe without as with them; for the facts that men of threat have been able to enter the house in their presence, that a lusty Secretary of Legation had to remove them, and that no attempt at arrest or even to take their addresses was made without suggestion, do not

say much for efficiency. Their general conduct seems to have been on about a par with the proceeding of the authorities with reference to those who presented the first letter.

As we state elsewhere, Mr. Summers had, in the interests of safety, to hurriedly depart from Tokyo yesterday. He is now in Yokohama awaiting the departure of the *Hongkong*, by which steamer he leaves for England, and his domestic circle has been broken up. Whether he will return or not is a matter of uncertainty. Japanese, however, will have time to deplore the folly and bad temper of some of their fellows, and to appreciate the effect the whole business will doubtless have elsewhere. For the occurrence must become a matter of common knowledge the world over, and may influence the Foreign Office more than a little when Mr. Summers gets home to tell the story, if it has not already preceded him. We fear Downing Street will not view the treatment of Mr. Summers with the same leniency as the British Representative here. Such events, even if they are of every day occurrence, will command notice there. In the meantime, it would be interesting to learn what the authorities considered proper punishment in the case of the offending soldier whom we are told committed a "mistake" (in direct contradiction to both Mr. and Mrs. Summers' assertion that the assault was deliberate), and it will be equally interesting to see what punishment will be meted out to the subsequent offenders and threateners, including the person so foolishly released at the outset.

THE REV. MR. SUMMERS INCIDENT.

FURTHER DEVELOPMENTS.

MR. SUMMERS HAS TO SEEK PROTECTION IN YOKOHAMA.

Our information received from a Tokyo correspondent yesterday respecting the serious development of the Summers incident has, upon enquiry, proved to be perfectly correct. Last evening our reporter visited No. 33-A, Tsukiji, the residence of the Rev. gentleman, for the purpose of enquiring into the matter. Approaching the house between 5 and half-past he observed a considerable crowd round the door. On a nearer approach he saw three men leave the house under the escort of gendarmes, and a few minutes later a carriage, containing the Hon. Mrs. Napier and the Rev. Mr. Summers, drove away in the direction of Shimbashi station, followed by a jinrikisha in which was the Master of Napier. Mrs. and the Misses Summers and Mr. James Summers, Junr., remained, though the ladies left shortly afterwards to stay with some friends. Mr. James Summers, who remained in the house under the protection of two officers stationed in the house, very kindly offered us all the information in his power.

THE BRITISH MINISTER DECLINES TO INTERFERE.

With the details of the assault on Mr. Summers by one of the Imperial Bodyguard our readers are already familiar. Three days after the occurrence, an officer of the Guard waited upon Mr. Summers and apologised for the insult he had sustained. Mr. Summers accepted the apology and displayed a spirit of forbearance throughout the affair. The same day Mr. Summers came to Yokohama to bid good-bye to the Duke and Duchess of Connaught, and here he met His Excellency the British Minister. Asked if he intended taking any action in the matter, His Excellency spoke of the affair as merely an ordinary occurrence and one which it was scarcely worth troubling about. During the after occurrences also he has never once interfered, has offered no protection to Mr. Summers, and the latter had himself to engage the police who have been stationed in and about the house during the past few days.

THE FIRST THREATENING VISIT.

On Saturday morning last, a man named Saito Shinichi, a member of a Soshi Club at Hongo, called at No. 33-A Tsukiji and asked to see Mr. Summers. He was admitted into the house and immediately began to abuse and threaten Mr. Summers. He was informed that if he did not conduct himself properly he would have to go outside, but this, instead of having the desired effect, only caused him to become more abusive and insulting. Mr. Summers ordered him out of the house, but he stood his ground and refused to budge an inch. One of the sons again requested him to leave, and, as he still refused, the house betto, a jinrikisha man and three or four other men were called and they practically carried him out, no violence, we are assured, beyond that necessary to conduct him to the door, being used. Here he was placed in the jinrikisha which had been waiting for him and he was taken to the police station close by. Shortly afterwards Mr. Summers received a visit from the police who asked him if his intention was to prosecute or to quietly settle the matter. In response they were informed that if the man was dealt with according to Japanese law that would be sufficient, but that Mr. Summer's family wished to be assured that the Reverend gentleman would not be again molested or ill-treated. Shortly afterwards one of the sons proceeded to the police station and asked that two men should be on duty in the house during the night. The police assured him such a precaution was quite unnecessary, but he declined to see the matter in the same light and finally it was decided that two men should be sent. The same evening they arrived and were stationed on duty in the house. The same evening the family were informed that the man arrested had been discharged as he could not, under the circumstances, be punished according to Japanese law. About nine o'clock that evening

TWO MORE STUDENTS CAME TO THE HOUSE.

One was dressed in Japanese and the other in European clothes, and they were both apparently about 20 years of age. One of them carried a stick. They handed in a letter written by the man who had previously visited the house. It was in Japanese and its contents were to the following effect :—

> You have insulted the Empress of this country, and when I came to your house this morning you acted rudely towards me,——you cuffed me and turned me out. What is the meaning of such rude conduct? I cannot allow the thing to stand as it is and I demand an answer by 4 o'clock tomorrow (Sunday, the 11th).

The letter was handed to the police and they, after reading it through several times, asked what they should do. One of the sons replied "you had better write an answer."

They said "no, it is addressed to Mr. Summers and not to us." The family insisted that something must be done, and one of the policemen went outside and asked one of the men if he had written the letter. He answered "no, I only came as messenger; I was asked to get a receipt for the letter." "You only want a receipt?;" "yes, that is all I require." He was then asked for his address. He at first endeavoured to evade a reply but, on being pressed, tendered an address similar to that given by the man from whom the letter purported to come. While the policemen were thus engaged, the fellow in English dress asked the servant how many police were on the premises. The servant refused to answer and the man then whispered to his companion "there must be more than one, for one is continually in and out of the house." Having obtained a receipt for the letter the men took their departure. On enquiring in the morning, the family were informed that

TWO MORE BATCHES OF MEN HAD BEEN WAITING OUTSIDE.

One, of about six men or more, was at one corner of house, and the other batch at another. One of the police stationed near the house ordered them to disperse and they moved away. On the Sunday morning one of Mr. Summers' daughters addressed a reply to the threatening letter of the previous day, something to the following effect:—

We are sorry that you are so much agitated about this incident and we think it is entirely due to a misconception on your part. Having resided for so long a time in Japan we have no reason for wishing to insult your Emperor or Empress, especially seeing that such an action on our part would be injurious to our school. If you will read the *Yomiuri Shimbun* (which contained an accurate account of the incident which has led to all the trouble) you will find out the true particulars and I trust you will then be satisfied.

GENDARMES SENT FOR PROTECTION.

On Sunday afternoon Mr. Summers deemed it advisable that gendarmes should be requisitioned to protect the house, and accordingly, one of the sons called upon Colonel Mitsumo, Head of the Gendarmerie, and explained the whole affair to him and also that it was Mr. Summers' desire to have one or two of the force to protect his house. The Colonel replied that he would send down one or two men to be about the premises, and shortly after 4 o'clock three of them arrived at the house. Having made enquiries from the family they said they would remain in close proximity to the house as it would scarcely be politic to be inside. During the night they patrolled about the place but nothing of note transpired.

AN EXTRAORDINARY CHARGE AGAINST MR. SUMMERS.

The late Viscount Mori and Mr. Okubo, both the victims of assassination, were during their lifetime friendly acquainted with Mr. Summers, and yesterday the latter proceeded to Awoyama to view the graves of his two deceased friends. This appears to have added to the ill-feeling of the *Soshi* against him and they declared that it was another proof of his animosity to the present rule. At all events, in the afternoon, three more fellows presented themselves at the house. By a peculiar coincidence the Master and Hon. Mrs. Napier were at the time paying a call on Mr. and Mrs. Summers, and when the men presented another threatening letter the Master of Napier rushed to the door and ordered the men to be taken in custody by the gendarmes. One of the men exclaimed "shitobakanishita," but one of his companions told him to "damatte" and he took the advice.

THE FAMILY IS SCATTERED.

As we state above, Mr. Summers proceeded to Shimbashi immediately after the men had been taken into custody and he spent the night at the Grand Hotel, where, we believe, he will remain till the departure of the P. & O. steamer *Hongkong* for Europe on Friday. The family is scattered about Tokyo,—the two eldest daughters staying with the master and Hon. Mrs. Napier at the British Legation; two younger daughters at Mr. Kirby's, No. 8 Tsukiji; three daughters at Mr. Dienst's, No. 44 Tsukiji; and Mr. J. Summers, Junr., at Mr. L. Salabelle's No. 20 Tsukiji. Mr. Summers' house has been given in charge of the two policemen on duty there and lessons have of course ceased in the school.

The Japan Daily Herald.

TUESDAY, 13TH MAY, 1890.

We had a short paragraph yesterday as to reported threats, &c., against the Rev. Mr. SUMMERS, but we were unwilling to say more than was absolutely necessary on the subject, as we had had no opportunity at the moment to verify the statements made, and we therefore thought it possible that the reports might have been somewhat exaggerated. Such, however, turns out, unfortunately, not to have been the case, and the question has assumed a phase which renders it very serious. The following is the gist of the remarks of the native press on the subject:—The authorities sent to the native press a *communiqué* contradicting the statement that the Rev. Mr. SUMMERS had been guilty of disrespect to the EMPRESS DOWAGER, but nowithstanding this some persons conferred together on the subject, thinking that this was a grave matter in regard to the Imperial House, and that it should not be passed over in silence, and they therefore elected SAITO SINICHIRO of Aomori Ken as a deputation. The latter proceeded, on the 10th instant, to the house of Mr. SUMMERS, in order to interview him on the subject. Thinking, probably, that he had come with the intention of using violence, he was handed over to the police and taken to the Kyobashi Station. Upon examination, finding that he only wished to confer with Mr. SUMMERS on the matter, he was released. Since then Mr. SUMMERS has, at his own request, been guarded by two policemen. A letter connected with the subject was sent him by the same persons through the hands of the policemen guarding him, and an answer, in English, has been received by them from Mr. SUMMERS the day before yesterday, and they are now conferring together with a view of opening a last parley with him.

This is all we learn from the Japanese papers, but our own information shows that the affair is much more serious. It is currently reported that the man who attempted to interview Mr. SUMMERS used threats, and this is confirmed by a private letter to us from Tokyo, which alludes to "the attack on the house on the night previous (Sunday)." If so, the action of the police in releasing the man is inexplicable, and it certainly seems that the authorities should enquire into the matter, unless it be held that as long as he only used threats against a foreigner, he had not done anything worthy of punishment. The matter was, however, serious enough for the authorities to have stationed a guard to protect the unfortunate victim, whose only offence was that he had been wantonly struck by a soldier. But the guard appear to have carefully absented themselves, just at the moment when their services would have been of some good. Yesterday, the MASTER of and the Hon. Mrs. NAPIER drove to Mr. SUMMERS' house at Tsukiji to see how he was getting on, when they found Mr. SUMMERS had taken refuge in a godown; the house was in total darkness, and all the shutters closed and bolted. Whilst the MASTER and Mr. SUMMERS were having an interview in the drawing room, a tremendous noise was heard at the door. The MASTER and Mrs. SUMMERS went down and opened it, when five men tried to push their way in, but the Secretary of Legation being a big strong man prevented them from doing so, upon which they handed in a letter, saying that they had come too soon, but that they would come later on, as they meant to have Mr. SUMMERS' blood. Such being the situation, that gentlemen was persuaded to leave for Yokohama, the MASTER driving him to Shimbashi station, and he was followed, we understand, by Mrs. SUMMERS in the next train. The remainder of the family went to friends in Tokyo to stay last night and the house has been left in charge of the servants. It is worthy of remark that the Police, who had been guarding the house all day, were absent at the time that the attack was made. Whether the five men were afterwards arrested we have not yet heard.

These facts will be viewed with indignation by foreigners of all nationalities. Had Mr. SUMMERS committed any offence, however slight, some excuse could be found, but considering that he was the aggrieved party, the whole thing is an outrage of the gravest description. But what will be thought of the Government abroad? Here is a country which wishes to enter into the fellowship of nations on even terms, and asserts herself as competent to protect foreigners residing in her territory, and yet in the capital city, under the very eyes of the government, which has any amount of force at its back, a foreigner is threatened with murder, and is forced to flee from his home, because he dared to complain against a soldier by whom he had been assaulted. The matter would not have been so grave had it been a sudden *émeute*, but considering that the agitation has been going on for days, no excuse can be made for the police and city authorities. What the central Government have done or are now doing, we have no means of knowing, but if they wish to retain any credit in Europe, they had better bestir themselves so that the punishment on these breakers of the law may act as a warning to others. There has been for some months, a growing animosity amongst certain classes in the capital against foreigners in general, which has not been unmarked, and which—if not crushed at the commencement—is certain to lead to grave complications. It may be that the Government is taking all reasonable precautions, but if so, their subordinates are very remiss in carrying out their instructions, and therefore it behoves the Japanese Ministry to take every possible

step to punish the authors of these outrages, and to prove to the world in general that the Government of this country has both the strength and the desire to defend those living under its protection. Meanwhile, treaty-revision has received another blow on the head, for foreign governments will be more loath than ever to make any change in the present condition of affairs, for events such as those now transpiring, tell much more on the public mind than columns of letters about the perfect civilization of Japan.

The Japan Daily Herald.

WEDNESDAY, 14TH MAY, 1890.

AFTER a silence of several days, the *Japan Mail* has given its comments on the recent outrages in connection with the assault on Mr. SUMMERS and—as every one expected—that paper has done its best to excuse the occurrence. Mr. SUMMERS' conduct—according to the Japanese organ—"was certainly open to misconstruction." We should like to ask in what manner? Even were we to grant that such was the case, it was no business of a member of the EMPRESS DOWAGER'S escort, to take any notice of it; that was the business of the police, and the sooner the members of Japanese escorts are taught what their functions consist of, the less risk there will be of collisions. Our morning contemporary also suggests that "the measures taken by the Authorities will be sufficiently drastic to prove thoroughly deterrent." We also hope so, but as yet we fail to see that the Authorities have taken any *drastic* measures. The first man who threatened Mr. SUMMERS was immediately released by the police, after being given in charge. The lancer who committed the assault has, the *Mail* tells us, been punished, but no one else knows this, and his punishment should have been a public one and sufficiently "drastic" to use the *Mail's* term, to have been a warning to his comrades. For all we know, his punishment may have been that his leave was stopped for twenty-four hours. We now hear that three of the men who threatened Mr. SUMMERS have been arrested, and if the higher officials of the Government insist that their subordinates shall do their duty and bring these men to punishment, much of the ill-feeling at present engendered would disappear, but up to the present neither the Japanese Ministers nor H. B. M.'s Representative seem to have been aware of the serious import, not of the original attack by the lancer, but of the subsequent developments which have been allowed to proceed unchecked. It is rather fortunate that the incident did not happen to an American citizen, or the U. S. papers would have stirred up the whole continent, and reparation would have been at once demanded and received. As the matter stands at present, an English clergyman of long residence in Japan has been driven from the country, his home broken up, and his family scattered, because he dared to make a complaint regarding an outrageous assault made on him, and because the police were either unwilling or unable to protect him. The occurrence is sure to awaken wide-spread interest abroad, more especially as the victim is a missionary, and this fact will at once enr oll the whole religious community of Europe and America on his side. We therefore await with interest the steps that the central Government will take on the matter, which we trust and believe will be of a nature to soothe the irritated feelings which now prevail amongst foreigners. Those now in power have resided a sufficient time abroad and are sufficiently acquainted with foreign feelings to know the harm that would be done to the Japanese cause, were the opinion to go forth abroad that such outrages could go unpunished and unchecked.

WE have received the following from a correspondent in Tokyo:—

In the first place the assertion of the *Mail* that Mr. Summers was not hurt is false. He was struck on the back of the head with the butt end of a lance, for your Japanese hero always attacks from behind if he possibly can, and the blow raised a large lump, so that on Saturday last Mr. Summers was still ill from the effects. On Friday, it appears some official called and got Mr. Summers' statement of the facts of the case.

On Saturday morning a Japanese called and said he wanted to see Mr. Summers. Mrs. Summers said he was upstairs and was not well, but the Japanese insisted upon seeing him on alleged important business and was finally shown to Mr. Summers' room. There he at once said that he was a friend of the soldier who had struck Mr. Summers, and demanded that Mr. Summers should contradict all that he had said on the matter and *apologize (!)* to the soldier. Mr. Summers said that the day before an official had obtained the statements of the facts from him, and that he could not withdraw anything as he had only told him what was true. The Japanese then called out he must withdraw all and *apologize* or he would be killed, and his house would be burned down. At the noise of this altercation Mrs. Summers and the servants came up, the police were called and the Japanese taken away. He was let go, however, as he had committed no actual violence but simply threatened murder and arson, which act, although an offence under the Japanese law, was not considered as such by its guardians. The same afternoon two Japanese entered the house again with the same request, and a number of young men who had come with them made a demonstration outside. The two spokesmen finally said they would give Mr. Summers time to comply with their demands till Sunday 4 p.m., and unless he withdrew his statements and apologized then they would kill him and burn down his house, even if they had to kill every foreigner in Tsukiji. On Sunday there was no demonstration, but on Monday afternoon a mob of patriots came down again, demanding an apology and uttering dire threats of vengeance. About that time Mrs. Napier came down in her carriage from the British Legation and took Mr. Summers to the Shimbashi railway station where he took the next train to Yokohama, thence to return to England. In the meantime the government had sent a body of soldiers to disperse the mob and the house was left under the protection of the police. The school of which Mr. Summers was the principal has been closed, some of the members of his large family are staying with friends and his property, seriously deteriorated in value, as no one is likely to buy a house which may be burned down any night, remains in charge of the police. And all this happened in 1890 in the foreign settlement of Tsukiji. Think of it, a Japanese brutally assaults a foreign gentleman, well advanced in years, the foreigner complains and a number of his assailant's friends band together, and by threats of murder and arson drive him out of the country, because he will not apologize to the man who struck him. As to how much of such sentiments is due to the recent inflammatory articles in the *Mail* upon an imaginary insult to Japanese royalty you can form your own opinion. Foreigners will do well to carefully avoid any streets and roads on which Japanese royalty is likely or expected to pass. Some ten years ago a *geisha* who ran across a street in Akasaka in front of a royal procession was injured by one of the guards with a spear thrust, and about seven years ago an eight year old boy was stabbed in the same way and for the same offence near Ogawa-machi, Kanda. The Japanese soldier of to-day is just as ready to slay as were the retainers of Satsuma who slew Richardson, and a look at one of the soldiers who roll through the streets of Tokyo on a Sunday more or less drunk, would be quite sufficient to constitute a deadly offence to be wiped out with blood. Foreigners who come to Japan in the expectation of finding the realisation of so-called "pen pictures" of Japan—drawn by gray-headed old boys whom the charms and attentions of plump little girls who approach them on their little noses have deprived of all powers of observation—would do well to bear this in mind and listen to the language of facts. I cannot close this letter without a sincere compliment to Japanese men-of-war's men. I have never yet seen one of them drunk; their quiet and unobstrusive ways constitute such a marked contrast to the noisy swagger of the half-grown soldiers to whom every one gives a wide berth, that both they and the officers who turn out such men are a credit to the country they serve and deserve all praise' and I sincerely hope I may never have to modify this opinion.

The Japan Daily Mail.

YOKOHAMA, THURSDAY, MAY 15, 1890.

THE CASE OF THE REV. MR. SUMMERS.

IT is impossible to treat seriously the intemperate and silly writing that has been inspired by the SUMMERS' incident. Taking the story as it is told by those who profess to have obtained it from the mouths of Mr. SUMMERS' family, and who certainly show no disposition to minimise its worst features, the whole thing amounts simply to this: that a youth waited on Mr. SUMMERS and having, in the course of a somewhat lengthy interview, used strong language with reference to Mr. SUMMERS' supposed disrespect towards the EMPRESS DOWAGER, was handed over to the police; that subsequently two other youths came bearing a letter from the first, in which an explanation of Mr. SUMMERS' conduct was again demanded; that policemen, being present at the time of the receipt of the letter, interrogated its bearers but attached no importance to the affair; that three more youths came the following day, and that, while two of them remained sitting in their *jinrikisha*, the third presented another document, wrongly described by rumour as a threatening letter, and was violently ejected from the house, he and his comrades being subsequently taken off to the police station. From first to last not the smallest attempt to resort to physical violence was made by the Japanese youths, nor does it appear that so much as a threat of violence was addressed to Mr. SUMMERS, either verbally or in writing. Such is the story as told in print by persons who assuredly have not set themselves the task of presenting it in a lenient light. And what is the sequel? Mr. SUMMERS begins by hiding himself in his godown, and ends by running away to Yokohama, while his family take refuge here and there in friends' houses, having closed the Japanese school which they were carrying on. Now we make no excuse whatever for the conduct of the cavalry soldier who struck off Mr. SUMMERS' hat with the butt of his lance. Still less do we think of extenuating the action of the giddy youths who constituted themselves guardians of the EMPRESS DOWAGER'S dignity. But we do distinctly affirm that Mr. SUMMERS has behaved in a precipitate, ill-judged, and pusillanimous manner. There was no tangible reason for him to disperse his family, discontinue his school, and fly to Yokohama. He had no right to set up a precedent that Englishmen can be driven from their homes by the bluster of three or four Japanese youths just out of school; youths who had not even shown a disposition to resort to personal violence, and whose comings and goings were observed by the police. We deem it very regrettable that the First Secretary of H.B.M.'s Legation, however kindly his intentions, assisted Mr. SUMMERS to make this undignified and craven flight, thus suggesting that the protection afforded by the police cannot be relied on by British subjects in Japan, and is not deemed trustworthy by British officials. At the same time we have to note, and we do so very emphatically, that the Honourable Mr. NAPIER acted in this matter entirely as a private individual, a friend of the SUMMERS' family, and not at all in his official capacity, and that his sole idea evidently was, on the one hand, to prevent any fresh complications, and on the other, to save Mr. SUMMERS' nerves from a possible repetition of shocks which had already disorganized them seriously. Indeed the only charitable construction of Mr. SUMMERS' conduct is that he lost his head. He does not even appear to care how falsely the facts of the case are placed before the public, for he still suffers it to be openly stated, nominally on the authority of information furnished by his own family, that his leaving Japan is a consequence of these incidents, whereas he was actually returning from the discharge of business connected with his approaching departure when he met the *cortége* of the EMPRESS DOWAGER. He must also be held responsible for the obviously false statements that have been published about the action of the British Legation. Mr. SUMMERS received no perceptible injury from the officious lancer, and the result of his complaint to HER MAJESTY'S Legation was that an officer of the Imperial Guards came to his house, tendered an ample apology, and assured him that the offending trooper had been duly punished. More than this could not reasonably have been expected, and Mr. SUMMERS declared himself quite satisfied. When his trouble began with the hair-brained youths, he sought police protection and made no appeal to the Legation. Had he made such an appeal, he would doubtless have been restrained from taking a step which shows the courage of an English gentleman in a new light, and greatly misrepresents the confidence that British residents feel in the ability and will of the Japanese police to protect them. Many years ago, Mr. SUMMERS, by failing to comply with the rules of public etiquette prescribed in another country, brought about a complication which entailed loss of life, and almost reached the dimensions of an international trouble. Maturer years do not appear to have brought him fuller wisdom, or he would have interfered ere now to prevent the spread of exaggerations which cannot but cause great

mischief. We write thus with considerable reluctance. Mr. SUMMERS and his family have done excellent educational work in Japan, and it would be very regrettable should these incidents be magnified into a cause for interrupting their labours. That a lancer should have attempted to strike off Mr. SUMMERS' hat was an outrage. There is no evidence, indeed, that the trooper intended to do Mr. SUMMERS a hurt. It has been explained that the hat alone was aimed at, and in point of fact the injury to Mr. SUMMERS' head was of the most insignificant description. Still the man's conduct was undisciplined and violent, and cannot for a moment be condoned. Equally blameworthy are the crazy youths who imagine that they have a mission to redress wrongs, which the Authorities alone are entitled to deal with. So far, therefore, as concerns his encounter with the trooper and the invasion of his house by blustering intruders, Mr. SUMMERS has our entire sympathy. But the course he has thought fit to pursue, the mischievous exaggerations he has allowed to be published, and the extremely juvenile busy-bodies who have applied themselves to magnify an insignificant affair into an international trouble, deserve the strongest condemnation, and will doubtless receive it at the hands of all sober-minded people.

THE JAPAN GAZETTE.

YOKOHAMA, 16TH MAY, 1890.

A DANGEROUS ELEMENT.

IT does not require very much perception to discern that there is to-day in Japan an agency which threatens to be productive of serious trouble in the future. Evidences daily rising to the surface, tell us that with all this civilization, adoption, and education, there has come into being a growing force of malcontents and disturbers who, by some means or other, will have to be combatted. The very thing which might have been expected to happen in a country of rapid transition, of quick and wholesale change from the old to the new, has taken place here. Out of the sweeping transformations of the last twenty years or less, has evolved a problem which, at a not distant day, may merit the very serious consideration of the Government. Looking through Japan at this moment, what do we find? That in every city and town of moment there are bodies of men whose rashness, and intemperance, and advanced notions, lead almost daily to some event opposed to the public well-being and peace. These are the product of education, the victims of radical and national reconstruction, which has either wholly swept away or vastly altered the associations and conditions of life which for centuries their predecessors had known. A nation has practically been plunged into an existence of innovation, of modes and institutions wholly foreign to the inborn instincts of heredity. Education has been disseminated somewhat lavishly through the land, with this drawback, that there is not a commensurate outlet for its recipients. It is opposed to our tenets to decry education, but it is quite apparent that education has some connection with the state of affairs to which we are now alluding, although the defect may perhaps be more properly said to belong to the lack of channels into which this knowledge can be profitably and lastingly directed. At any rate we may conclude that education, of a kind, has an undoubted connection with the undesirable state of affairs we see to-day in Japan. In Tokyo and the other great towns, there are growing bands of moody dreamers with just enough education to be dangerous; young men who, by reason of the very learning they have received, are unfitted for the walk in life they ought to take. They live from hand to mouth and spend their time in discontent, intrigue, and molestation. They are to be found throughout the country. Their haunts practically honeycomb the great centres of life. In the guise of politicians, they fan agitations. Their existence is a menace to well-being. We do not care to reproduce the mad escapades which can be traced to this source; and indeed it is unnecessary so to do, for Japanese and foreigner alike have had ample opportunities for observance. To this class of people we may trace the later developments of the Akasaka troubles, which, we believe, have chiefly emanated from a camping ground of these *soshi* in Hongo. Their vaunted zeal about respect to the Imperial Family is an empty cry, and equally insincere is the chatter about revenging a friend. It is the work of idle, dangerous men, who, in the absence of anything better or worse to do, devote themselves to the creation of dissension and trouble, and bring only discredit on their kin and on the land to which they belong. The pursuant threateners of the Rev. J. Summers we believe are of this class. We are told they are men who could insipidly chatter about Herbert Spencer, and, like all men of their class, have imbibed the nauseous doctrines of something beyond advanced Socialism. It is perhaps natural, under the circumstances, that there should be in Japan this body of intractability, and it is perhaps also true that to-day the Government does not know how to treat it. The question, we grant, is a difficult one. But, perchance, in the order of things it will right itself, and this speck of ill-omen pass from the Japanese horizon like mist before piercing sunlight. It behoves the State directors, however, to watch closely this element; and it would be safer for them to tackle the problem to-day; rather than leave it to settle itself, and some day awake to find that they are confronted by a strong force antagonistic to the peace, prosperity and general propitiousness of the country, its Government, and its people.

DEPARTMENT OF STATE
JUN 11 1890
RECEIVED.

DIPLOMATIC BUREAU.
JUN 16 1890

No. 118.

Mr Cridler

Legation of the United States
Tokio Japan, May 19. 1890.

To comms F.R. V
" F.A. V
" A.N.M. (Sen) V
" Home V
" 17 June 90

Mr Swift-

To the Secretary of State

Rec'd 19 J- Fwd
To comm on
4 any

To Comm on Aff's Pacific Islands
4 any

Subject:

Lease and occupation of new premises in Tokio for the Legation of the United States.

Referred to Committee 17 ~~Jan~~ Dec 1890 -

2D ASSISTANT SECRETARY.

JUN 14 1890

Make regular application for increased appropriation of $600 to meet this statutory charge.

Copy the letter to Committees, Senate and House, for consideration of the proposal to purchase.

Refer to repeated recommendations in this sense heretofore made, Pres.

W. Adee

This lease is in accordance with the terms of Section 4124 of the Revised Statutes

Two thousand dollars will be payable on Mch. 4, 1891 and a similar sum on May 15, 1891

There will be only $3,400. available if the appropriation for 1891 follows our Estimate.

It will be necessary

therfore to apply to Congress for the extra $600.

The alternate proposition of purchase is too excellent in various ways to need any commendation from me. I hope it will be submitted to Congress.

Until we get the $600. extra appropriation, I presume it would be

the lease in view of the prohibition contained in Section 3679 of the Revised Statutes

Respectfully submitted:

T. J. Kieckhoefer

No. 118.

Legation of the United States.
Tokio Japan, May 19. 1890.

Hon. James G. Blaine,
Secretary of State,
Washington D.C.

Sir:

Acting in pursuance of your telegram dated August 22, 1889. instructing me to negotiate for premises for Legation purposes, I now have the honor to inform you that after considerable Effort, accompanied by no little anxiety and anxiety, I have at length succeeded in making what I think will prove to be a satisfactory arrangement and that

that the Legation has been removed from No. 1. Isakiji, Tokio, to No. 1. Hemokigaka machi, Akasaka, Tokio.

In my despatch No. 18, dated June 22, 1887, notifying you that No. 1. Tsukiji had been sold and that the new owners would require possession at the end of the lease, I suggested to you the nature of the difficulties in the way of making a satisfactory change. In the first place houses of Japanese construction are unsuitable for the permanent residence of people from our part of the World. They are exceedingly diminutive in size being usually mere toy houses, with

with proper partitions and doors and ceilings from six to seven feet high, no chimneys nor fire places and not glass windows, in fact they lack most of the conveniences and comforts of houses in our country.

The houses of foreign residents in Yokohama are superior, comparatively few in number, and most of these belong wholly to the Japanese Government and are occupied by Ministers of State by Imperial Princes or by foreign Governments for legation purposes, and the supply is far short of the demand even at the rates paid by H. I. M. Government, for reasons satisfactory to themselves, endeavored to induce

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the principal foreign Powers to be erected Legation buildings in Tokio, with that view they offered to give land for building sites to Great Britain, France, Germany, Italy, Holland, the United States and, I believe, to some others. These sites were commodiously situated in the central part of the city, adjacent to the Imperial Palace, the Foreign Office and to each other, and, above all, in the best drained and least unhealthy in a city which owing to imperfect drainage may fairly be put down as unhealthy. Great Britain, Germany, France, Russia and Italy promptly accepted

are accepted the donation which was by perpetual lease already granted, such have been constructed substantial, and, in several instances, imposing structures which are now occupied by their Legations.

But the United States has not as yet done so. It is true that in the suggestion of Mr. Bingham in his dispatch No. 1978, dated January 2, 1883, to Mr. Frelinghuysen, the Department of State went as far toward accepting a building site as it could and recommended Congress, Vide House of Representatives, Ex. Doc. No 187. 48th. Congress 2nd Session, to make the necessary appropriation for constructing

a

a Legation building thereon, but Congress failed to act; and there the matter had rested ever since. This, I have reason to believe was a decided disappointment to the Imperial Japanese Majesty's Government, who were very anxious not only to have the United States Legation well situated, but, they also were now, wished to show their friendly feeling towards our Country and Government. The result was that from that time till last week the Legations have continued to remain as they were, and recently, the most unhealthy and most inconvenient part of Tokio and at a distance so great, - near three miles, - from the other Legations, the Palace and

the

the Foreign Office, as to guarantee
sadisfaction from the people with
whom we had the object to maintain
official and social relations,
such, in every respect, be placed
at the greatest possible disadvantage
in fact coming to the knowledge
of the Japanese Government that the
late United States Legation premises
had been sold and that I was
encountering difficulty in my
efforts to find other accommodation
they, in the kindest manner, came
forward with an offer of a very
convenient and suitable house
in their premises recently built
after the same type as the one referred
to, the object in view was not
merely to assist me in my difficulty
but

but that they deserved to make another effort to include the United States. I became like Great Britain and the other Powers owners of its Legation provided its Legislature, the minister, or charge d'affaires verbally informed the Government, are desirous to do something that will testify in a material way their sense of obligation to the United States for generous hospitality heretofore received in the vicinity of Europe.

To this proposition I accepted frankly, but you will observe from the correspondence to show the very narrow limits within which my power to speak for or commit my Government were confined.

The

The leased premises, into which I have removed, Contain about 3840 Japanese tsubo (one tsubo contains thirty-six square feet (6x6 feet)) and therefore, include something over three acres of ground. This is located on this hill, the ground in the line of which the Legations, which are situated around and overlook the Imperial Palace grounds. It is between the Dutch and Russian Legations, being within four minutes walk of either and about the same distance from the Foreign Office. Next to our Legation is the Navy Department. In fact all the public establishments in their order going North from this Legation, reaching to

to the Imperial Palace, they come in the following order, each adjoining the other, to wit:- The Navy Department, the Noble's School, the Russian Legation, Foreign Office, the new Parliament House, the Foreign Office, the War Office, the Military Barracks, containing the Contingent of Boys, troops kept in Tokio, which last abuts against the Palace enclosure. To the left of the Palace is the British Legation and on the opposite side and across the Palace grounds, the French Legation is situated.

I beg to call your attention to the fact that to the north of the grounds of the Russian Legation, the health and, owing to its proximity to the Military Barracks, to that

this

this time for the ease of mind of not the actual protection and safety of the inmates of the Legation, the present site is the best attainable and therefore highly satisfactory.

You will observe that I have agreed with Viscount Aoki to the payment of rent at the rate of four thousand (¥4,000.) dollars per annum. In my judgment, if measured by property values in this Capital the rent is entirely reasonable. Of course this is based upon the value of both land and improvements which taken together are considered by Experts to be from ¥80,000. to ¥100,000. The land alone is Estimated at ¥60,000. It has doubled in

value

value within a very recent period
when the probable development
of the Capital upon Westward lines
is considered it is reasonable to
suppose such advance will be
continued in the future.

I have reason to believe that the
rent of the premises has been put
by the Japanese Government at
full but not excessive value in
the desire and belief that our
Government may be brought the
more readily to understand that
the offer of the privilege of buying
the improvements and taking a
perpetual lease of the ground is
an offering of sufficient value
to indicate the grateful feeling
of Japan towards the United
States

State and that it will be accepted as such by Congress and the necessary appropriation speedily made for the purchase of the improvements, instead of paying rent for both land and improvements. The amount named as the price of the improvements, 20,000 Japanese silver yen, they assure me only covers the bare outlay in constructing the new building and improvements never actually occupied by the Legation and marked on the map as "a". When the verbal agreement was made in the early part of the present year, that sum in Japanese money at the then

price

for in of silver amounted to about
$22,000.- in U.S. Money. There is an
old mixed Japanese and foreign
building also on the ground, the
possession of which cannot be
immediately delivered, marked
"J" on the Map, which though
no part of the original bargain
will in a few months be turned
over to the United States and thrown
in along with the rest; which, if
of no great present value, has
cost several thousand dollars
to build, and may be put to
useful purpose when possession
is had. This is included, or
rather thrown in with the lease
and will take the main and
all other buildings because the

Two pieces

property of the United States, should the plan of purchase be adopted, and will be turned over in the course of the year without additional rent under the lease.

I wish to most strongly recommend the plan of purchase, and in support of that course, I beg to call your attention to the fact that if a Legation is to be maintained at Tokio for the next six years, within that time, the purchase plan not being carried out, the Government, by its annual rent payments will have paid for the improvements out and out and will still be paying rent at the same annual rate, for I feel confident the

promises

premises will be then well worth the annual rent agreed upon and will probably be then as they are now the only available place at Tokio for the Legation.

When this circumstance is borne in mind and especially in view of the strongly expressed desire of the Japanese Government, urged upon me at the time of the transaction, not to occupy any longer than positively necessary the relation of landlord and tenant to this Legation, I cannot but hope the purchase plan may be agreed to, the fee paid and the annual rent brought to an end as early as possible. The main building, and which is

is the substantial thing leased and now occupied by the Legation, is a new well built frame building with handsome and solid cut stone foundations two feet under and three feet above the ground under every part with stone steps at all entrances; very solid and well constructed brick chimneys and fire places; and covered with a first-class tiled roof and is quite a large and roomy if not a trifle larger than the old Legation buildings at No. 1 Tsukiji, and much more conveniently arranged and perfected for Legation purposes than that was. For a country of such

Numerous

numerous and severe earthquakes as this (they average one a week throughout the year and within the last sixty days we have had seventeen in one single night, one lasting six minutes) I, with my California experience, decidedly prefer a wooden house to any other kind.

It has the necessary jail, or place of detention of persons awaiting trial or otherwise lawfully held for judicial purposes and is in every way preferable to the old Legation premises and Dependencies.

You will observe that the lease provides for the payment of the first half years rent on the 4th day of March 1891 after which it

it is payable annually at the End of each year. This was agreed to at the special request of Viscount Aoki in order to Enable the Government to make certain needed improvements on the leased property without asking for a special appropriation from the Treasury for that purpose. I trust it will meet with your approval.

One of the duplicate of the original lease is Enclosed, herewith, for your inspection and approval. I also enclose copies of the correspondence between Viscount Aoki and myself pertaining to the lease.

I

I have the honor to be
Sir
Your obedient servant.
John A. Swift

Enclosures:

1. Memorandum of Lease of Legation premises, signed May 19. 1890.
2. Viscount Aoki to Mr Swift: March 25. 1890
3. Mr. Swift to Viscount Aoki March 26. 1890.
4. Viscount Aoki to Mr. Swift. March 27. 1890.
5. Mr. Swift to Viscount Aoki. March 30. 1890.

Whereas, Viscount Shigo Aoki, His Imperial Japanese Majesty's Minister of State for Foreign Affairs, acting on behalf of His Imperial Japanese Majesty's Government, has, upon certain terms and conditions, leased and rented to the Government of the United States of America, the land, premises and movable property, known and described as Number one B. Yenokisakamachi, Akasakaku, Tokio, Japan, for the purpose of a Court House and Jail; And whereas, John F. Swift Envoy Extraordinary and Minister Plenipotentiary of the United States has subject to the subsequent ratification and approval of the Honorable the Secretary of State of

the United States, hired and taken the land, premises and movable property aforesaid, on behalf of the United States Government for the purposes above specified: It has been deemed advisable to reduce to writing the terms and conditions upon which the said land, premises and movable property have been so leased and hired, which terms and conditions are as follows:

1st. The land so leased measures Three thousand, eight hundred and six tsubo, eight go, eight seki, and three-fourth sai, and is laid out and bounded as shown in the accompanying map.

2nd. The premises so leased consist of the following buildings erected on said land:

(a) The main or principal Legation building, of European or American style and architecture recently finished, constructed of wood, two stories in height with cut stone foundation and brick chimney, measuring one hundred and seventy-nine tsubo, five go, eight seki, and seven sai and represented by the letter "a" on said map.

(b) One out house, Japanese style and construction, measuring thirty-three tsubo and five go, and represented by the letter "b" on said map.

(C) One out house Japanese style

and construction, measuring three tsubo, nine go, and seven seki, and represented by the letter "c" on said map.

(d) One out house, Japanese style and construction, measuring forty-seven tsubo, and represented by the letter "d" on said map.

(e) One out house, Japanese style and construction, measuring thirty-four tsubo and seven go and represented by the letter "e" on said map.

(f) One single storied wooden building, Japanese architecture and mixed Japanese and foreign construction, measuring two hundred and seventeen tsubo,

six go and three seki and represented by the letter "f" on said map.

(g) One out house, Japanese style and construction, measuring twenty-one tsubo and represented by the letter "g" on said map.

(h) One out house, Japanese style and construction, measuring eight tsubo represented by the letter "h" on said map.

(i) One out house, Japanese style and construction, measuring thirty-six tsubo, and represented by the letter "i" on said map.

3rd, The term for which said land, premises and movable property is leased is

two years from the 15th day of May, 1890. The United States Government has, however, the right to two renewals of the lease for the same period, upon the same conditions at their own option.

4th, The rent reserved and payable by the United States Government to His Imperial Japanese Majesty's Government, in respect of said land, premises and movable property, is Four thousand ($4000) Dollars, United States money per annum. Rent for the first six months of said lease being payable on the 4th day of March, 1891; the remainder of the rent for the first year being payable on the 15th day of May, 1891, and the annual rent being thereafter payable on the

15th day of May of each and every succeeding year during which the lease or any renewal thereof, is in force.

5th, If for any cause the United States shall be deprived of full possession of the said lands and the buildings thereon, the United States shall only pay for the time of the actual possession and enjoyment of said lands and buildings under the agreement, at the rate aforesaid and thereupon the lease shall determine.

6th, In the event the Honorable the Secretary of State of the United States shall disapprove of the contract, the same shall thereupon be of no effect, and the possession of said premises shall be

surrendered upon such disapproval, to His Imperial Japanese Majesty's Government.

7th. His Imperial Japanese Majesty's Government are to keep the said land, premises and movable property in good and sufficient repair.

8th. Upon the termination of the lease or any renewal thereof, the United States Government are to return the said land, premises and movable property (loss, destruction or damage by fire and other casualities excepted) to His Imperial Japanese Majesty's Government in good order and condition, proper allowance being made for reasonable wear and tear.

9th. His Imperial Japanese Majesty's Government have granted and extended to the

United States the right at any time during the continuance of the lease, or any renewal thereof, if they think proper, to purchase the said premises and movable property, for the sum of Thirty thousand (Yen 30.000) Yen of Japanese money.

10th, In the event the United States Government exercises the said right of purchase, His Imperial Japanese Majesty's Government will then grant to the United States Government a lease in perpetuity of the said land, subject only to the annual payment of the sum of Four hundred (Yen 400) Yen Japanese money, as ground rent.

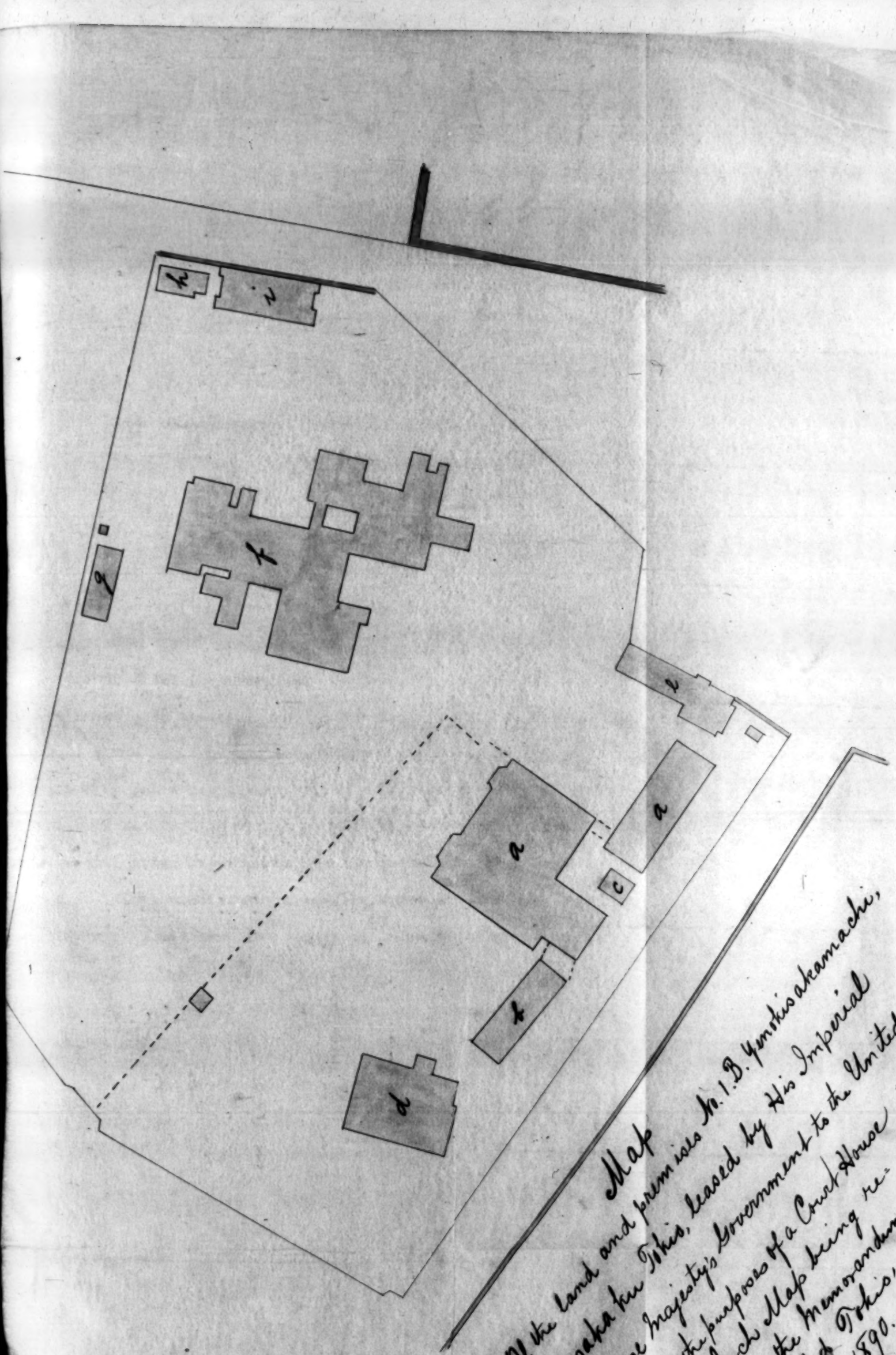
11th, His Imperial Japanese

Majesty's Government reserve to themselves the right in the event they grant to the United States Government a lease in perpetuity of the said land, to take the said land at any time for purposes of State, upon payment of a just and reasonable compensation for the buildings and improvements thereon belonging to the United States.

In witness whereof the Undersigned have signed this Memorandum, in duplicate, at Tokio, this 19th day of May, 1890.

Saigo Tsugumichi

John F. Swift
U.S. Min



Map of the land and premises No. 1. B. Yamashita akamachi, Akasaka ku Tokio, leased by His Imperial Japanese Majesty's Government to the United States for the purposes of a Court House and Jail. Such Map being referred to in the Memorandum of Lease dated Tokio, May 19th 1890.

Enclosure (2) with Mr. Swift's No. 118.

(Copy.)

Translation.

Department for Foreign Affairs, the 25th day, the 3rd month, the 23rd year of Meiji, (March 25th 1890).

His Excellency,

John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

Sir:

It has come to my knowledge that by reason of the change of owners, it becomes necessary for you to vacate the premises now and for many years past occupied as the Legation of the United States.

The Imperial Government are owners of a lot of land at Yenokizakamachi, Akasaka, and the furnished buildings thereon, which I think would be suitable without modification for Legation purposes being situated in that part of the city of Tokio adjacent to this office and within a short distance of the several other Departments and the various Foreign Legations. I have accordingly asked the Imperial Government whether they would have any objection in permitting the said premises to be employed as the Legation of the United States in the event you should find it convenient to make use of them for that purpose.

The Imperial Government have long cherished the wish of testifying in some appropriate manner their warm appreciation of

of the uniformly friendly disposition of your Government and I am consequently pleased to be able to say that they would be happy to place the said premises at your disposal as the Legation of the United States, in case you should find it agreeable to occupy them for that purpose.

I avail myself of this opportunity to renew to your Excellency the assurances of my highest consideration.

Viscount Siuzo Aoki,

H. I. J.M's. Minister for

Foreign Affairs.

Enclosure 3 in Mr. Swift's No. 118.

Copy.

No. 48.

Legation of the United States,

Tokio March 26th 1890.

His Excellency,

Viscount Siuzo Aoki,

H. I. J. M's. Minister for Foreign Affairs.

Viscount:

Your communication of the 25th instant, placing at the disposal of the United States, for Legation purposes, certain lands and buildings and appurtenances in Yenokizaka-machi, Akasaka, Tokio, is before me and in reply I have the honor to say it is true as Your Excellency has been informed, that the present Legation must be vacated immediately as the lease has expired and the owners are demanding possession.

I have examined the lands and buildings to which you refer, situated in Yenokizakamachi, Akasaka, and am aware that they are very advantageously situated and suitable and well adapted in all respects for the purposes of this Legation. I am fully sensible of the considerate and friendly impulse that has prompted your offer at a moment when I am in pressing need of buildings for Legation purposes, and I beg to convey to you an expression of my appreciation of your thoughtful courtesy.

In view of the fact that several of the Powers represented at this Court have been accommodated by the Imperial Government in connection with their respective Legations, I have no hesitancy in accepting Your Excellency's offer, provided I

am

am permitted to lease the premises in question, for the purposes of a Legation, under the provisions of Section 4124 of the Revised Statutes of the United States, subject to the approval of the Secretary of State, for the period of two years with the privilege to the United States of one or more renewals, paying an annual rental at such rate as we may hereafter agree upon, not to exceed the sum fixed as a maximum by the said Act of Congress.

I shall be happy to learn at your convenience whether the terms and conditions which I am authorized to offer are acceptable to the Imperial Government.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

JOHN F. SWIFT.

Enclosure (5) with Mr. Swift's No. 118.

(Copy.)

No. 49.

Legation of the United States,

Tokio, March 30th 1890.

His Excellency,

Viscount Siuzo Aoki,

His Imperial japanese Majesty's Minister for

Foreign Affairs.

Viscount:

In reply to Your Excellency's Note of the 27th of March informing me of the willingness of the Imperial Government to place certain premises situated in Tokio and described more fully in your favor of the 25th instant, at the disposal of the United States for Legation purposes and offering to conclude with me a lease thereof upon the basis suggested by me, I have the honor to accept the offer and to request that you will name a time when we can discuss the terms and agree upon the rent to be paid and other necessary details.

In-as-much as my authority to enter into a lease on the part of my Government for buildings for Legation purposes, is contained in the provisions of Section 4124 of the Revised Statutes of the United States, together with a telegram from the Department of State instructing me to negotiate for such premises, dated August 22nd 1889, I herewith transmit for Your information copies of said Act of Congress and of the instruction referred to. I also transmit herewith a copy of the instrument of lease under which the present Legation premises have been occupied for several years past, which having been

been made under authority of said law will necessarily be followed in its terms so far as applicable in the lease of the new premises to be agreed upon between Your Excellency and myself acting for the United States.

I take notice of what Your Excellency says in respect to the accommodation heretofore extended by the Imperial Government to other Powers in the way of Legation premises in Tokio, and will mention that I was already cognizant of the fact that such Powers had in all cases either constructed their own Legation buildings or paid for such as were already constructed or standing upon the leased land.

Although I have no instruction whatever from my Government bearing upon the point and have no right to speak for it, yet, I have no doubt in my own mind that the United States would, im the language of Your Excellency's Note, prefer, like the other Great Powers, to own their own Legation buildings, and I think further that it is reasonably probable that when Congress is informed that it would be agreeable to the Imperial Government that the United States should own the buildings instead of paying rent for them, that an Act will be passed making the necessary appropriation. But in order that I may not be understood to speak for the United States beyond my power so to do, I should here remind Your Excellency that this is not to be taken as more than an individual and entirely unofficial opinion and that I have no right to stipulate for anything to be done by Congress in the future except as specifically authorized by Section 4124 of the Revised Statutes,

a

a copy of which is enclosed.

In the personal belief, however, that my Government will approve of my action and in the hope that Congress will appropriate the funds, I gladly accept in behalf of the United States the offer of the Imperial Government of the option of purchasing the improvements in question at any time during the continuance of the lease and that a clause to that effect be inserted in said instrument, provided, of course if upon further consideration and in view of my entire want of power to stipulate as to the course Congress in its wisdom may pursue, Your Excellency is disposed to continue the offer.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

JOHN F. SWIFT.

Enclosure (4) with Mr. Swift's No. 118.

Copy.

Translation.

Department for Foreign Affairs, the
27th day, the 3rd month, the 23rd
year of Meiji. (March 27th 1890.)

His Excellency,

John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary
of the United States of America.

Sir:

I have the honor to acknowledge the receipt of Your Excellency,s Note of the 26th instant in response to my communication of the previous day, in reference to Legation premises.

In reply I am happy to be able to say that the Imperial Government are willing to place the premises in question at the disposal of your Government for Legation purposes, upon the terms and conditions set forth in your Note and that I shall, in consequence, be prepared at any time to conclude with you a lease upon the basis suggested.

Referring to that part of Your Excellency's Note in which you speak of the action of the Imperial Government in reference to the Legations of some of the other Powers, I beg to state that the accommodation extended to the other Powers has in all cases been limited to the leasing of unimproved land for Legation sites and that the Governments so accommodated have either erected thereon their own Legation buildings or purchased those already constructed.

It

It has occurred to me, in this connection, that the Government of the United States might, like the other Great Powers, prefer to own their Legation buildings. In that event the Imperial Government would be perfectly willing to dispose of the buildings and improvements in question to the United States at a valuation to be agreed upon. Such an adjustment would, I am convinced, prove mutually advantageous to both Governments, and I would therefore suggest that a clause be inserted in the lease reserving to the United States the right at any time during the continuance of the lease, so to acquire said buildings and improvements.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Viscount Siuzo Aoki,
H. I. J. M's. Minister for
Foreign Affairs.

DEPARTMENT OF STATE
JUN 11 1890
RECEIVED.

DIPLOMATIC BUREAU.
JUN 11 1890

No. 119. and 12 June

ASSISTANT SECRETARY.
Ck by subject and good words for Mr. Mullen.
JUN 11 1890 agja

Legation of the United States

Tokio, Japan, May 20, 1890.

Mr. Swift
To the Secretary of State.

Subject:
Cabinet Changes.

No. 119

Legation of the United States
Tokio, Japan, May 20, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

For some time past the —
metropolitan press has contained
various and often conflicting
rumors of intended changes in
H. M.'s Cabinet; but since
I received no official notice
thereof nor could not reconcile
them nor satisfy myself of their
authenticity, I refrained from
communicating them to you.

On the 17th instant, however,
several changes were officially
announced

announced which I have the honor to make known to the State Department.

Count Yamagata, who, since the end of last year, has been Minister President of State (Prime Minister) retains at the same time continuing to hold his former portfolio of Home Affairs, has now resigned the latter post, and remains Prime Minister only.

Count Saigo resigns the Navy portfolio and taking the place left by Count Yamagata becomes head of the Home Office.

Viscount Kabayama, hitherto Navy Vice Minister, is promoted to the chiefship of the same Department.

Mr.

Mr. Ryerse leaves this
portfolio Vice Minister of Home
Affairs and takes the place at
the head of the Department of
Education vacated by Vice Consul
Emmett. Vice Consul Emmett
in turn retires altogether from
the Cabinet and becomes a
private Consul.

Mr. Lavergne "on account
of ill-health", which possibly may be
political euphemism for having
made his political "exit" gives up
his portfolio of Agriculture and
Commerce which is handed over
to your worthy friend Mr.
Masters, the late, brilliant,
successful and popular Min-
ister of H. & J. M. near the

President

President of the United States.

To complete the list of changes, Mr. Shivarao Devalchia becomes Vice Minister of the Home Office; while the equivalent place at the Navy Department remains to be filled hereafter.

It is thought these changes will tend to strengthen the Cabinet at points where it needed strength.

I am, however, too much a Japanese politician to hazard an opinion upon such a question.

That at this juncture, if not always, just now at this time, Affairs in this country, especially strong men are needed at the head of the Home Office as well as of the Educational Department, seems to me

much

most manifest. Japan is in no little danger, internally, and the internal possibilities of danger seem to be such as would tend naturally, in the end, to bring down upon her dangers from abroad.

One of the curious facts to be noted just now is the startling reaction against foreigners and especially against foreign teachers that seems to have developed itself amongst the young men who have had the benefits of the foreign, scientific education and amongst the student class generally.

It would seem that the young men that have been graduated at the schools modelled upon the European and American systems,

founded

founded and conducted by ~~—~~ European and American educators are disposed to ~~regulate their~~ attainment of academic honors by an organized and bloody onslaught on their teachers. If this has been in any manner due to ~~perversities~~ in the Department of Education, the character of Mr. Mutsu for liberality, discretion, coolness of judgment and firmness of purpose, gives promise for a decided improvement.

The Home Office, having control as it does of the police, in view of the existing state of things in Japan, is beyond question the most important place in the Government, not only with

respect

~~make~~ ~~to the safety of~~ ~~—~~
foreigners, but for the welfare
~~and prosperity of the country~~.

Count Saigo, while not possessed
~~of extraordinary~~
~~intellectual powers~~, is universally
~~respected~~ and looked up to for
~~his~~ unflinching courage and ~~—~~
~~recognized~~ firmness of character,
~~qualities~~ most useful at such a
~~critical~~ ~~period~~ as ~~this~~ ~~—~~
~~this~~ appointment gives general satis-
~~faction~~.

~~I trust~~ that you may
more easily revise your list
of Japanese Government offi-
-cials & give your ideas the
Cabinet as it now stands.

And as clan politics still
remain

remain, as indicated in the letter, & state the class to which each member of the Cabinet belongs as follows:

Prime Minister, Hamaguchi, (Choshiu)
War, Ugaki, (Okayama)
Navy, Takarabe, (Satsuma)
Home, Wakatsuki, (Satsuma)
Foreign, Shidehara, (Choshiu)
Justice, Hamada, (Choshiu)
Education, Hashimoto (Tosa)
Finance, Matsuo (Satsuma)
Agriculture & Commerce, Tanaka (Kishiu)
Communications, Goto (Shizuoka)

I have the honor to be,
Sir,
Respectfully obedient Servant,

Joseph C. Grew

DEPARTMENT OF STATE
JUN 11 1890
RECEIVED.

DIPLOMATIC BUREAU.
JUN 11 1890

Ans'd 12 June

Mr Cooley

No. 130

Legation of the United States,
Tokio, Japan, May 30, 1890.

Mr. Dwight
To the Secretary of State

Subject:
"Scotts Emulsion" Case
in statu quo.

No. 1230.

Legation of the United States.
Tokio, Japan, May 30, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to acknowledge the receipt of your instruction No. 3-9 of date the 15th day of March, containing your ruling upon the question raised by the correspondence and interviews between myself and H. E. M's Minister for Foreign Affairs touching the license and

Hoist

excise duty collected upon the articles of American production known as "Scott's Emulsion"

As promptly as possible after receiving the instructions I caused a copy of the same to be made and forwarded, accompanied by a brief note and suitable comment to U. S. Vice Consul Dorsi, since which time I have heard nothing further of the matter.

I have thought it advisable, under the circumstances, not to make immediate inquiry or allusion to the matter

for

the present, in the hope that in due time the objectionable ruling will be rescinded and the article purified ~~of~~ relieved of the ~~tax~~, perhaps ~~put back~~ immediate publicity. and

In view of the attention given to the matter at the time by the Japanese press and the opinions upon it, I think this course on my part likely to lead to less embarrassment to H.B.M's Government in accepting your ruling, as I understand they have by fair implication agreed to do in the ~~~~ submission of the question for your decision and ~~~~ which

which I have for granted they will at their earliest convenience proceed to do.

If yours, on the contrary, deem it advisable for me to insist upon immediate action, I will again bring up the matter promptly upon receipt of your instruction to that effect.

I have the honor to be,

Sir,

Your obedient servant,

Jonath. Swift

DIPLOMATIC BUREAU.
JUN 11 1890

DEPARTMENT OF STATE
JUN 11 1890
RECEIVED.

2d ASSISTANT SECRETARY.
JUN 11 1890

No. 121

Acknowledged 12 June

Legation of the United States,
Tokio, Japan, May 20, 1890.

Mr. Swift
To the Secretary of State.

Subject:
Students assault on American.

No. 42.

Legation of the United States,
Santo Domingo, January, 1890.

The Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

I have the honor to inform you that since the last steamer, the foreign commerce of Puerto Plata has been threatened with a state of great uneasiness and alarm, and a large portion of the business community made up their minds that they would be ruined

the

the Rev J. Lindsay, of the American Presbyterian Mission, and a professor in the Scholastic institution supported by that Mission. The facts of the negotiations and briefly as follows: The afternoon above named there was to be another demonstration in Peking, and the Legations all anticipated serious disturbances, one of which, was to be the attack of Dr. Lindsay in Peking. Dispatches were sent to the Legations stating that the Boxers proceeded to the place but, starting late, did not arrive till the guards had commenced. Being unacquainted in that neighborhood he reached

the

the ground at the rear and at a point next communicating to the main entrance. Being himself closely connected with one of the teams as to occupy the position of third teacher and being late to arrive, instead of going around to the principal gate he stepped onto a low ledge intending to walk to a group of spectators seated on the opposite side. Directly he had done so he saw a considerable number of young men arise & form divided themselves into two sections on the opposite side of the field and run in his direction. Not suspecting in the least that his presence had anything to do with their movement, he walked

rushed forward till he met them when suddenly he found himself surrounded by an angry crowd who seized him & beating him & kicking him & driving him to the fence instead of going around to the gate & some of them crying out "Kick him!" They also proceeded to assault him with sticks & stones in the face, violent & dangerous blows in the lower part of his body, & one of them stabbed him in the face with a knife. At this point one of the boys of his own school interposed with a statement of who he was, whereupon the assault was stopped & he was permitted to retire.

He

He then made his way with-
-out further molestation to his
home where he received surgical
treatment and has since been
confined to his bed. Owing,
doubtless, to the fact, Holiday,
that the physicians were not generally
armed, it turns out that Mr. —
Brokaw was more dangerously
injured. It is the belief of
some gentlemen who witnessed the
affair that had the opposing men
possessed the necessary firearms
Rockwood gentlemen would
have been slain on the spot.

What actually did occur would
under ordinary circumstances be
a very trifling affair and
altogether unworthy of

a Dispatch to the State Department. As soon as possible after the occurrence I was informed of it by the Rev. Dr. Knox, an American missionary and teacher who was on the ground and observed all that took place. After a full conference with that gentleman, speaking in behalf of Dr. Embrey, we came to the conclusion and agreed that, in the interest of Dr. Embrey and other injured persons, we would, if possible, avoid publicity, to remove the complaint to the authorities and to let the affair pass without notice.

It was the opinion of Dr. Knox, in

in which it concerned, that to
pursue the matter judicially would
be perilous if the strict interpretation
of the penal and revenue acts should,
upon the determination of the Courts
be against the manufacturer or
intermediate, that the result would
most likely be the imposition of a
massive amount for their negligence,
to subject him to further investigation,
and perhaps compel him to quit
Japan, as a prudential measure.

It therefore determined to do
nothing at present.

This conclusion was, however,
based upon the representations which
they advised should that the
affair could be adjusted to
quietly pass off without

becoming

the ordinary procedure. On Monday morning, however, he learned that knowledge of the dangerous ~~condition~~ ~~spread~~ ~~among~~ foreigners of all nationalities and that ~~connecting~~ it with the recent attack upon the Rev. Peter Anderson and the shooting ~~assassination~~ of the Rev. Mr. Savage, they were alarmed to a degree that ~~pointed~~ to call for some action on my part, if for no other purpose than to allay their fears. Accordingly, on Monday morning I sent to H.E. Viscount Aoki, H.I.J.M's Minister for Foreign Affairs and requested an

interview

interviews for Monday at 11 o'clock A.M.

I do not think that in managing this we ought to handle rebels which make requests of protection for ourselves and the Government could take that might not be more harm than good. The situation is peculiar, too very the least. For reasons that I will endeavor to explain more fully in a future Dispatch it is much difficult to determine any definite course of proceedings that will tend to protect them. From the class of dangers to which in general they are subjected in Madagascar. Of a general character and particular reflection must

Consider

people would likely to believe that the price to foreigners in this country are similar to those to which they are subjected in China and that what will protect foreigners in that country will be sufficient protection in this. This criticism would be language inconsistent. The conditions are singularly unlike. The Chinese are a wonderfully homogeneous and gregarious people and are without social or class distinctions. When anyone is excited they act in masses and when these aggregated are exceedingly dangerous and destructive. But taken individually they are as harmless as

sheep

sheep and in fact possesses many of the characteristics of the timid and docile animal.

Whatever varying views may be held of a people possessing many graces and attractions, the Japanese possess much resemblance to the tiger that the sheep. It will further be seen that such a view is held by the Chinese who always speak highly and respectfully of the Japanese. Whatever foreign trouble threatens a nation will always find the Chinese in order and forward there a friendly appearance. Chinese spies, which is always made very conspicuous, for, as before mentioned, it is always a mark that the Chinese are

dangerous

dangerous.

The [illegible] gathering of many respectable [illegible] assemblages on this market [illegible] the Rio. Many, as upon which [illegible] most [illegible] classes, [illegible] the [illegible] of the [illegible] assemblages, [illegible] through [illegible] social [illegible] and [illegible] of race are deeply grounded in

the

the minds of the people by custom and tradition and they are very relatively to each Collectivity [illegible] immaterial. The great [illegible] body of the people of Japan are [illegible] patients, [illegible] to their object of major policy reasonably humane. [illegible] the [illegible] classes considerated, intelligent, rational and [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] highest moral [illegible] [illegible] of [illegible] of individuals [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

peculiarity of the [illegible]

The exact privileges or at least immediate and for the [illegible] many other reasons very difficult to deal with in contract. Upheld as exempt from [illegible] of that enormous and almost [illegible] sensitiveness of [illegible] to criticism and especially to ridicule, their [illegible] to [illegible] [illegible] [illegible]

[illegible] and [illegible]
[illegible] with the [illegible]
individual [illegible] the [illegible]
enterprise of [illegible]
[illegible]

[illegible] Receiving it, Resolved, That the
[illegible] to inquire [illegible]
[illegible] to procure an [illegible]
[illegible] and that [illegible]
[illegible] to [illegible]
citizens, on [illegible]
according to [illegible], &
called upon [illegible]
Assn. addressed [illegible]
him to action. After listening
to [illegible] he said that
in reply, that the matter
had already been brought
to the knowledge of this

Imperial

Imperial Majesty would
advise that the Government
should already recommend
to their energetic steps for
the protection of all foreigners
residents in Japan. Which I
informed him we did & that
we regarded the situation as
serious and that my Country-
men would greatly abominate
as a grave outrage, the
assassination which appeared
and that while they were not at
liberty to instruct them to me
he felt sure that they would
be satisfactory to me & take
proper the desired result.

JH

~~At his office he informed me that~~ ~~calling his attention of the~~ ~~Government to the matter,~~ said that the fact of my having moved in the affair would facilitate him in urging upon the Cabinet the necessity of taking active measures and that he would use the circumstance to the best advantage.

The mail being about to close, I can add nothing further at present but will communicate with you again at an early day upon the same subject.

I have the honor to be,

Sir,

Your obedient servant,

Yours F. Swift

The Japan Daily Mail.

YOKOHAMA, MONDAY, MAY 19, 1890.

DISTURBANCE AT THE FIRST HIGHER MIDDLE SCHOOL.

ON Saturday afternoon a base-ball match was arranged to take place between the students of the Meiji Gaku-in, a school founded and maintained by the American Presbyterian Mission, and those of the First Higher Middle School (*Koto Chiu-gakko*). The grounds of the latter, at Kanda, near the Imperial University, were selected as the scene of the contest, and the team of the Meiji Gaku-in proceeded thither at one o'clock in the afternoon from Shirokane, where their school lies. The Rev. Dr. Imbrie and the Rev. Dr. Ammerman, who, in addition to their regular missionary work, teach at the Meiji Gaku-in, desiring to witness the match, set out from their residences in Tsukiji and walked to Uyeno. Not being clearly acquainted with the position of the Middle School's recreation ground, they entered the University enclosure, and making enquiries as they proceeded, finally found themselves on a road skirting the place they sought, but separated from it by a bank with a low quickset hedge. Mounting this bank, Dr. Imbrie saw the base-ball match in progress at the other end of the ground. To reach the scene by the road involved a considerable detour, and as Dr. Imbrie observed that children were playing undisturbed on the bank, and remembered that the match must be approaching completion, he decided to take the shortest route by crossing the bank. Dr. Ammerman ascended the bank twice with the same object, but finding that it presented a more formidable obstacle than he had supposed, resolved to proceed by the road. The two gentlemen were thus separated for a few moments, and during that time the event which we have to relate occurred. Dr. Imbrie walked forward briskly towards the scene, and had come within a short distance of the outmost players when he observed ten or twelve youths spring up from the crowd of spectators who were seated watching the match. These lads, joined at once by another contingent, so that the whole numbered some thirty or forty, came running towards Dr. Imbrie. The latter, not associating the movement with his own presence, continued to advance, so that in a moment he met the crowd, and then for the first time became aware that he had given umbrage by entering the ground from the back. To the youths' cries of "you crossed the fence," he answered quietly, "Yes. I belong to the Meiji Gaku-in." But before any further conversation could take place, he was hemmed in by the crowd, and one of the youths, who, with two or three others, seemed particularly excited, slapped his face, and, seizing him by the wrists, attempted to kick him in the stomach. Fortunately the lad's stature was not equal to his brutal intentions. He did not succeed in inflicting any injury. Somebody of even more savage disposition, however, struck at Dr. Imbrie's face with a knife, and inflicted a nasty wound on the left cheek. At this moment one or two of the Meiji Gaku-in students ran up calling to the rest to desist as Dr. Imbrie was their friend, and a proctor arriving simultaneously, Dr. Imbrie was suffered to walk away without further molestation. He was almost immediately joined by Dr. Ammerman and Dr. Knox, and the three gentlemen made their way to the road, desiring to get Dr. Imbrie home as soon as possible in order to treat his wound, which was bleeding profusely. A number of the students accompanied them for a little distance, talking excitedly. Before reach a *jinrikisha* stand a policeman was passed, and to him the students hastened to give their version of the affair; alleging, so far as we have been able to gather, that they had simply resented the intrusion of a stranger into their private grounds, and that any injury received by Dr. Imbrie had been inflicted unintentionally in the confused scramble consequent upon their attempt to expel him. Dr. Imbrie, meanwhile, walked on quietly, and when the policeman ran after him to enquire whether he wished to make any statement, he contented himself with giving his card. We have spoken of the use of a knife because, although the students claim that the blow was given with a broken tile, the surgeon who dressed the wound asserts that in all probability a sharp cutting instrument was employed. Dr. Imbrie is up and about, though of course confined to his house. He speaks of the affair with the utmost forbearance and charity, but we are unable to echo his sentiments. It is beyond question that a Japanese entering the recreation ground of the Koto Chiu-gakko as Dr. Imbrie entered it, would not have experienced similar treatment. The idea plainly present with the students was that a foreigner, having placed himself technically in the wrong, had offered an opportunity for the violent assertion of Japanese rights, and accordingly they hastened to mob him and ill-use him. Under such circumstances a mere cuffing or hustling would have been bad enough, but to attempt to kick a man in the stomach and to stab him in the face with a knife merely because he has unwittingly trespassed, are the acts of savages. We have never been backward to appreciate the good qualities of the Japanese or to give them full credit for their achievements, but we must frankly say that we can discover no sort of palliation for this last act. Since the Restoration in 1867 no comparable disgrace has been inflicted on the Japanese nation as that which it has now suffered at the hands of the Koto Chiu-gakko students. If only to show that outside the walls of a school which must henceforth be a byword among civilized people, no scintilla of sympathy is felt with such barbarism, we trust that the most signal punishment will be inflicted on the perpetrators of this outrage. And we trust also that no attempt will be made to shield them by their victim and his friends. Dr. Imbrie, whose admirable discipline of temper enabled him to refrain from all acts of retaliation in the presence of so cruel and unprovoked an attack, will doubtless be restrained by the charity which he and his fellow workers constantly practise from preferring any strong complaint or seeking any signal redress. It will therefore devolve upon the Authorities to adopt, of their own motion, such measures as shall indicate their utmost condemnation of the students' cowardly and uncivilized conduct.

The Japan Daily Herald.

MONDAY, 19TH MAY, 1890.

Another Assault.

THE excitement as to the SUMMERS' case has not yet had time to die away, 'ere the rising generation of Japan has once more asserted its hatred of foreigners. It appears that on Saturday afternoon there was a baseball match between the pupils of the Meiji Gaku-in, a school established by the American Presbyterian Mission, and those of the First Higher Middle School, which was played on the grounds of the latter. Two of the missionaries, Drs. IMBRIE and AMMERMAN, who teach in the former school, went over to see the game, and not being exactly acquainted with the location, they took a wrong direction to the entrance, but finding that he could reach the ground by climbing a bank, the Rev. Dr. IMBRIE did so, his companion preferring to walk round by the road. No sooner, however, was Dr. IMBRIE on the ground, than he was surrounded by a crowd of some thirty students who complained of his not having entered the grounds by the proper entrance, and although he explained that he belonged to the Meiji Gaku-in, he was struck in the face, seized, and kicked, and eventually stabbed in the face by some of the students. Fortunately some of those from his own school came up, and explained who he was, and having been joined by two of his friends, he was allowed to make his escape, and although afterwards accosted by a policeman, he declined to lodge any complaint. On arrival at his house, his wound was dressed by Dr. MCDONALD, who was obliged to put three stitches in it, and Mr. IMBRIE, it is needless to say, has since then been confined to his house. This, if any were needed, is another example of the feelings entertained by the rising generation of Japanese towards foreigners. Even supposing that Dr. IMBRIE had been in the wrong in entering the ground where he did, no excuse can be offered for the manner in which he was assaulted, and no youths, with any pretension to civilization, would ever have thought of behaving in that manner. Even the *Japan Mail*, *mirabile dictu*, for once, finds it useless to attempt to excuse the acts of its *protégés*, and calls for the action of the Government. The circumstances require, however, a very strong hand. There is no doubt that the student class forms an increasing danger to Japan and to her good relations with other countries. They have a smattering of foreign learning, but apparently only just enough to bring out the worse traits in their character, and under the belief that they are civilized, they act like young barbarians. Nor must it be imagined that events such as those which have lately occupied public attention are isolated cases. The personal attacks may be uncommon, but the animus which prompted them has long been existent, as any one who has been brought into contact with the present class of students must know. Some of the members of the Y. A. R. C. who, at the invitation of Mr. WATANABE, the President of the Tokyo University, were present at the regatta some few weeks ago, were insulted by students in uniform, but to which particular school or college these youths belonged, the foreigners were not sufficiently acquainted with the badges they wore to be able to tell. The thing is growing, and getting worse every day, and the Government will have to resort to very strong measures to restrain these youngsters, who are heedless of all discipline, not to say of the common courtesies of society. The Government, we know, regret these incidents as much as anybody, inasmuch as each of them adds to the difficulty of the revision of the treaties, and they have now a splendid opportunity of making a striking example of these young barbarians, who are a disgrace to their age and their country. On an occasion such as the present, justice should be sharp and swift, if any effect is to be produced on the students, and if the Government desires to stand well with foreign nations. We must say also, whilst paying every due respect and honor to Dr. IMBRIE's charitable and Christian feelings in remaining quiescent under his injuries, we think that for the sake of other foreigners resident in Japan, he should insist on his assailants being punished. Day by day the circumstances in Tokyo are getting more serious to foreigners, and he owes it to others not to allow the attack on himself to pass unpunished. We have also a sort of feeling that the U. S. Minister will not be so quiescent under the attacks on his compatriot as was the British one, and we trust that he will lend his assistance in enforcing punishment on the offenders.

DUPLICATE

THE JAPAN GAZETTE.

YOKOHAMA, 19TH MAY, 1890.

THE LAST OUTRAGE.

MISSION workers specifically, and foreigners generally, have cause to remember the present year, and particularly the last few weeks. For, during that period, Japan has been the scene of hitherto almost unprecedented occurrences here. First there was the unrevenged murder of the Rev. T. A. LARGE; then the assault and reckless persecution of the Rev. J. SUMMERS, followed by the perpetration of a wanton outrage on the Rev. Dr. IMBRIE on Saturday. This trio of ill-deeds will stand forth prominently in the retrospect of '90 as three huge blots, and the work of erasure will be a difficult one. The attack on Mr. IMBRIE, coming at any time would have been viewed as serious; but, following so immediately after the SUMMERS' affair, it is invested with a more vivid light, and may go far to justify the oft-whispered assertion that there still lingers in this little island a measure of haughty anti-foreign feeling. At any rate certain Japanese have, during the last few days, done much to justify the assertion.

Elsewhere we fully relate Saturday's occurrence. It appears that the Rev. W. IMBRIE, D.D., of the American Presbyterian Mission, in company with the Rev. J. L. AMERMAN, D.D., set out to witness a base-ball match between the respective teams of the Koto Chiu-gakko (the First Higher Middle School) and the Meiji Gaku-in—the latter a scholastic institute in connection with the American Presbyterian Mission. To avoid a somewhat circuitous walk, both gentlemen endeavoured to enter the field by crossing a hedge. Mr. AMERMAN, however, subsequently decided to walk round to the gate, while Mr. IMBRIE stepped over the hedge. Thus the two were separated, and it was during this period that the assault took place. The moment the students of the Koto Chiu-gakko descried the Reverend Doctor, they savagely fell upon him and maltreated him. Beyond remarking that Mr. IMBRIE's left cheek was gashed by a knife, we will not here re-detail the assault. There can only be one thought regarding this attack. Coming from barbarians pure and simple, it would have been an unmitigated disgrace. But, emanating from the educated youthood of Japan, from the students of one of the highest educational institutions in the Capital, it is beyond merited description. We have seen the educated youths of Tokyo in the most cruel guise imaginable when brutedom was concerned; and now we have seen them in the shape of out-and-out ruffians, who, in overpowering numbers, have manifested the most unjustifiable brutality towards an absolutely unoffending foreigner. There is only one offence schooldom in Tokyo requires to now discharge to complete its character for outrage as represented in the Koto Chiu-gakko, and that one we will leave unnamed here. Even that emblem of chivalry the *Mail* fears to emulate, in regard to this happening, its latest unpardonable escapade which called forth the execration of every foreigner in the country. There is no chance for extenuation here, no opportunity to defame the injured person, no loophole for the wriggler. We have here an outrage, not a "mistake," not peaceful argument—an act not to be placed on shoulders other than those to which it properly belongs. The students of the Koto Chiu-gakko have disgraced themselves and also the school to which they belong. They are entitled to the hatred of their fellow men, to the abhorrence and disgust of every foreigner, and their proper place is not in a school existing for the education of presumably civilized beings. They have not reached a stage which justifies their inclusion. What is known as a Reformatory in the West, is their proper home; and instead of playing baseball for recreation, a tread-mill would be more in place.

It is Christian-like that Dr. IMBRIE should display lenity towards those who have marked him for life; that he should, in the interests of the nation, desire the affair to be hushed up. But it is an event which cannot be screened; and it is one which should not be muffled and smothered. Why, forsooth, should a gang of savage young blackguards who have sought to kick a man in the most dangerous part of the body, and, failing thus to inflict the injury they sought, gashed his cheek with a knife, be sheltered? By their deeds let them be judged, and if they are they will be severely punished. Fortunately, and we may perhaps be forgiven for saying this, the victim was an American. As we mention elsewhere, *his* Minister has already taken prompt action, and as a result of that, coupled with the desire of the authorities to redress wrong, we may look for the condign punishment of those who are guilty of a brutal and cruel attack which has gained for the perpetrators and the Institute to which they belong a disgrace that would cause a blush to rise in the cheek of a savage.

2D ASSISTANT SECRETARY.
Approve two months' charge = ¥568.22 - may be drawn against Emergency fund - aag
JUL 5 1890

JUN 20 1890
RECEIVED.

DIPLOMATIC BUREAU
JUN 21 1890

Mr Adee
Mr Kuhlenschoefer

No. 122.

Acknowledged July 9. Cir 96

Legation of the United States.
Tokio, Japan. May 22, 1890

Mr. Swift
To the Secretary of State.

Subject:
Extra two months' rent
for old Legation premises.

No. 122

Legation of the United States.

Tokio, Japan, May 22, 1890.

Hon. James G. Blaine,

Secretary of State,

Washington, D.C.

Sir:

Having reported to you in my No. 118 dated May 19th. 1890, that I had in the interim vacated the premises at No. 1, Tsukiji, so long occupied by the Legation, I have the honor to add that owing to the severe and unfatal illness of inmates of the Legation, I was compelled to remain in the old

old premises the period of thirty days after the expiration of the lease, namely, from March 15th. to May 15th.

The new proprietors, the English incorporated, — joint stock Company of Yokohama, after having entered into understood the facts, proceeded to my remaining a month or two longer, if necessary, recede from or repudiate their agreement and returned me rent by saying to compel me to quick, so that the period thirty days of my holding over was done in the face of their rather angry demand for immediate

immediate possession whether in lieu of a notice which they must give to the effect that after April 15th. if he remained in the house the rent demanded be at the rate of £100. 00 a day. After this notice he said hardly [illegible] that he intended at the [illegible] earliest moment [illegible] possible. He may mention the fact that he came to this room Lafayette as soon as the official bank, viz. Secretary's office, Court House, Jail, etc. was ready for use and before the residence part was properly fit for my family to inhabit.

While I mention that Mrs.

Swift

Knight was dangerously ill in bed from March 1st. to April 15th. and that a Japanese lady nursing as interpreter to her was stricken with malignant typhoid fever April 8th. and died in the Legation April 30th., you will understand the obstacles in the way of my leaving the old place at Tamsui, even if the new premises had been in readiness for occupation, which they were not.

You will also appreciate the grave unfairness of the news proprietors in harassing me and adding to my troubles at such a time by a demand

demands with which it was well known it could not comply.

Since my leaving the premises the owners who then took possession have not called upon me nor made any further demand for compensation for the use and occupation of their property for the sixty days referred to. I take it for granted, however, the notice concerning the $100.00 a day was sent, a copy of which I received on board for your information, was an empty threat, made solely to annoy me and that they can have no expectation of obtaining any such sum from the United States nor from myself.

I

[illegible] that in
due time they will come for-
-ward with a reasonable
claim, which as I can con-
scientiously recommend for
payment. In view of the fact that
the United States have
occupied the premises for
nine nineteen years; paying
a good rent for the same,
and that during all of that
time the understanding
between the owners and the
occupying Chiefs of Legation
was that the two-year leases
were to be renewed regularly
upon expiration, it seems to
me that the Government was

justly

justly and duly entitled to a twelve months notice of the intention of the owners to change the practice and pass the property to different use. Instead of that, when I arrived here in May, 1879, Mr. McIlraith, the agent, gave me to understand that he wished me to favor, as had been usual, another renewal of the lease at the end of the current term then ten months off. To this I agreed, and supposing it would of course be renewed, laid out several hundred dollars of my own funds, on the premises, to make myself comfortable.

H

It is true, it was aware that the then owners (the Pennsylvania Estate) were capable, to sell, that it was not for a moment supposed that the sale would involve a change of the users of the property. On the contrary, the fact that the United States Government could be relied upon as a tenant at rental was acknowledged to be a great risk rendered the property salable and would be relied upon to give the premises value. There is no doubt that my contract to rent the house was regarded as of substantial value to the owners at the time it was given.

Burt

Just about that time there sprang up an active land speculation in property due to a variety of causes, but which speedily proved illusive. A treaty revision seemed about to be accomplished with supposed brilliant speculative possibilities. Then an Exposition was planned at Paris for the present Spring which it was believed would bring a vast number of visitors from foreign countries to Japan. Influenced by this movement, an English hotel company long established at Yokohama conceived a plan of having a branch at Paris. They bought the property, made

made plans for construction in the garden of an extensive wing for bed-rooms, utilizing the Legation kitchen as a common one & were notified that the lease would not be renewed and that it must vacate.

There were then only eight months left in which to communicate with and secure authority of the State Department (as actual negotiations usually sixty days at least) it being well known to all concerned that no obtainable accommodation for the Legation then existed in Tokio.

Since that time things have changed materially in

Japan

Japan. Treaty revision broke down at this end of the line. There was no international fair. Less than the usual number of tourists have come. While the feelings, at least for the time, of the Japanese towards foreigners is by no means as satisfactory as could be wished. The Hotel scheme, it is now believed, by those who understand the matter, will be a failure and will probably result in a financial loss. It is quite likely that the disagreeable action of the women is the result of spleen, growing out of the new regime.

Blunder

Alexander troops have committed in sending the Legation away.

Under these circumstances I feel that you must agree with me that the payment by the United States to the owners for the two months the premises were held over after the lease expired, at the rate of the former rent under the old lease, will be ample compensation and all the owners ought to have. It is certainly all that I can conscientiously recommend.

I therefore have the honor to recommend payment to them of the sum of five hundred and sixty-eight dollars & twenty-two cents ($568.22/100) U. S. money.

On

in this presenting a claim for that amount and giving a full release and acquittance of all claims and demands for the use and occupation of the property, and request that you will give me authority to draw for the same.

I have the honor to be,
Sir,
Your obedient servant.
John F. Hartzell

Enclosure: Copy of letter as above.

copy)

Yokohama,

10th April, 1890.

ir:

On the 25th ulto. I wrote you asking you when you expected to e able to vacate the Legation premises, but having received no eply to my letter from you I called at the Legation on the 8th nst. and again failed to get any definite reply to my enquiry.

Your lease of the premises having expired on March 15th, I now eg to notify you that, if you do not remove from the premises on he 15th instant, your rent will be at the rate of one hundred ollars Mexican for every day you continue to occupy the property fter that date.

I regret being compelled to give you this notice, but I have o alternative as the proprietors of the Club Hotel, Limited, have otified me that they will impose a like penalty if I fail to give hem possession on the date named.

I am, Sir,

Your obedient servant,

J. JOHNSTONE.

ON. J. F. SWIFT,

United States Legation,

Tokyo.

RECEIVED
JUN 20 1890

DIPLOMATIC BUREAU.
JUN 21 1890

2D ASSISTANT SECRETARY.
TO BUREAU OF ACCOUNTS.
or examination.
ich. by number and file, if reported
orrect.
JUN 21 1890

No. 1

United States Legation
Tokyo Japan May 31st 1890

W. N. Whitney Interpreter of Legation
To the Secretary of State.

Subject.

Duplicate Statement of accounts for
Quarter ended March 31st 1890

United States Legation

Tōkyō May 31st 1890

Hon. Jas. G. Blaine

Secretary of State

Washington

Sir:

Herewith please find my duplicate statement of Salary account for the quarter ended March 31st, the original of which I had the honor to send you April 14th last.

I have the honor to be

Sir,

Your obedient servant

Willis Norton Whitney

Interpreter of Legation.

Enclosure as above.

by Messenger

JUN 20 1890
CEIVED

DIPLOMATIC BUREAU.
JUN 21 1890

No. 126.

Legation of the United States.
Tokio Japan. May 31. 1890.

Mr. Swift:
To the Secretary of State.

Subject:
Receipt of Instructions

No. 123.

Legation of the United States
Tokio Japan. May 31. 1890.

Hon. James G. Blaine.
Secretary of State
Washington D.C.

Sir:

I have the honor to acknowledge the receipt of your instructions numbered respectively from 48. to 70. both inclusive, also of your telegraphic instruction dated Feby 25, 1890. and your Circular instruction dated March 20, 1890.

I have the honor to be
Sir
Your obedient servant
John F. Swift

DEPARTMENT OF STATE
JUL 3 1890
RECEIVED.

DIPLOMATIC BUREAU.
JUL 7 1890

No. 124

Legation of the United States,
Tokio, Japan, June 2, 1890.

Mr. Dwight
To the Secretary of State.

Subject:
State of feeling of Japanese people with regard to foreigners; its probable causes; and effect on Americans in Japan.

No. 124.

Legation of the United States.
Tokio, Japan, June 2, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

There is some reason to fear that there exists among a certain class of Japanese, a reaction of more or less strength, against foreign ideas and tendencies. The result is that a sense of uneasiness and insecurity, especially among our missionaries, disturbs the foreign community. I am in hopes however, that there is no serious ground to fear for the personal safety

safety of any class of our people.
There is, however, reason for thinking that many excellent and conservative Japanese participate to some extent, in the revulsion of feeling against foreign tendencies, and that the strong desire to adopt foreign ideas and manners which has prevailed in Japan for some years past, is meeting with a backset: I do not think this result is unnatural or to be wondered at. That there has been in this country a too hurried scramble to adopt foreign fashions without regard to their fitness for the people, or the people for them, and that thoughtful Japanese are coming to

to understand the fact is almost self-evident. The advancement Japan has made in utilizing the inventions and discoveries of Europe and America, in physical science, especially in the application of steam and electricity, has been very great and much, in the end, does everything else along in the train of progress. But it is hardly worth pointing out, that progress in physics and mechanics is far more easy than advancement in intellectual and moral science.

The Japanese engineers and machinists, so far as I am able to judge, are not so very far behind those of Europe and America. Steamships ply the waters and trains

trains of cars traverse the land, handled by Japanese engineers alone, and the work seems to be quite as well done as in other countries. But a man who in six months may learn how to control a locomotive engine, and handle the train, may not be able in a life time to manage a town meeting, or to even understand the system where town-meetings exist. It looks now as if the effort at educating the Japanese youth, in western literature, history, philosophy and especially in the ethical sciences, law, politics and the like, is in considerable danger, not of final and ultimate failure

but

but of serious retardation. It is from this quarter of western education that the conservative men of Japan, are just now receiving their first and sharpest disappointment.

The educational movement in Japan, which during the last twenty years, has so attracted the attention of western countries, is beginning ~~to exhibit~~ its results. For several years past, annually, some thousands of young men, after a crude and imperfect study, of a heterogeneous conglomeration of authors, in which Herbert Spencer and Jean Jaques Rousseau, Adam Smith, Henry George and others innumerable, have been jumbled together in hopeless confusion

conquerors, have been graduated from the schools and flung into society; and it is not too much to say, that the output is not at all satisfactory to those who have the welfare of Japan most at heart. These young men — originally entered upon their — course of studies, full of enthusiasm and imbued with the belief that the acquisition of what is known here as "the foreign education" would insure to them a successful career in life, with a certainty of an easily obtained and sufficient maintenance. Now that they have their diplomas, they are as a class utterly disappointed. They find that the accomplishments

they

they have so laboriously acquired are practically without marketable value. There is no opening for them in any profession or business, and having become unfitted for obtaining a living by labor, they are thrown back in a state little, if any, short of beggary. Such is the condition of the alumni. The prospects of the undergraduates are not more promising. As one of the results of the great educational craze growing out of the wild desire for the "foreign education" it appears that a vast number of private schools and academies, have sprung into existence, not unlike the bubble companies of the time of Law and the "Mississippi

Scheme

Scheme." These schools are conducted as a private, money-making speculation, often by men utterly without any of the necessary qualifications for teaching. Hundreds and even thousands of young men are in attendance upon schools conducted by private enterprise, where each student pays a sum often not exceeding one dollar a month. The poverty and often the ignorance and incompetency of the school proprietors, taken along with the peculiarly touchy and repulsive dispositions of the Japanese, remaining over from the feudal system and its serious and even bloodthirsty customs, have put quite out of the question anything like true

true and sound academic dis-
-cipline as understood in schools
in Europe and America. As a
result there are many thousand
students (I have heard the number
put as high as twenty thousand,)
in the Tokio schools, who behave
themselves pretty much as they
please, regardless of all rules, who
smoke, and talk, and walk about,
and wear their hats during school
hours, defying all regulations of
school and constituted authority
generally, keeping the teachers in
a state little short of abject terror.
Even the police seem to be in
awe of these hair-brained and
unruly, growing patients. Out
of this system is rapidly
developing

developing if not organizing a class of wild, headstrong, ill-balanced, flighty, and often vicious young men, known as "Shoshi" who are in fact desperate political and social agitators, threatening all authority and organized government. While obtaining a very imperfect western education, they have not forgotten the ancient traditions and customs of Japan, especially those which under a misguided sense of patriotism and loyalty, seems to render assassination, when accompanied with suicide so attractive to the popular mind.

Whatever personal danger is likely to threaten foreigners in Japan comes chiefly from this class

class. And the first foreigners to be involved in such fuss will be, in the nature of things, the missionary and teaching class, amongst which are a great many citizens of the United States. As missionaries in Japan, as a rule, are also teachers, this class of our countrymen are subject to any danger that may arise from contact with the reckless and turbulent students and their sympathizers. At the same time they are involved in whatever risk there is in attacking the ancient religion of the country, which, in the exercise of their calling, they must do, at least indirectly. Finding that a considerable number of American missionaries reside and carry on missionary and educational work

outside

outside of treaty limits, & have thought proper to inquire into and ascertain, as far as possible, the various decrees and regulations of the Japanese Government by virtue of which they are enabled to so reside and work, and now have the honor to report the facts for your information.

The actual privileges of citizens of the United States residing within the territory specially set aside at the open ports for the residence and business pursuits of foreigners, & need not specify as they are contained in the Treaty and are therefore familiar to you. But in addition to the treaty rights of residence within or travel within the distance of twenty-five miles without and beyond the

the settlement or concession, which twenty-five miles forms what is commonly known as "treaty limits," the Japanese Government, for many years past, have, by official regulation, permitted foreigners to travel and even to reside beyond and outside of such treaty limits, under the circumstances and conditions which I shall now proceed to describe.

First; foreigners, whether residing in Japan or merely visiting or passing through the country, may travel outside of treaty limits for the purpose of health or of scientific research, but for no other purpose whatever. To enable them to obtain this privilege, foreigners residing in treaty limits as well as tourists -

visiting

visiting or passing through the country must, through their diplo-matic representatives, apply to the Minister of Foreign Affairs for a passport authorizing them to so travel. The citizens or subjects of nations having no treaty relations with Japan, have no right to travel through the country at all or even to cross its frontiers. The application for a passport must in each case state in terms the purpose for which the travel is intended, namely, for either health or scientific research as the case may be. Nothing else will avail. No general passports are issued for the whole of Japan nor even for any named district, nor to enable the people to go about the country

country at will; but the applica-
tion must state in precise and
accurate geographical detail the
places to be visited in regular
sequential travelings order, as they
occur along the road, and must set
forth a practical route, and, finally,
must state the time the applicant
traveler expects to consume in the
journey; in no case to exceed six
months in any one trip. A person
traveling on such passport is required
to follow, in strict, geographical
sequence, the route specified in the
application, which is carefully repeated
in the passport itself, and will be
promptly stopped and arrested or
turned back by the police, if found
to have left the route or to be in a

place

placement of its regular order. The traveler is required, in terms, to exhibit his passport at any time on the demand of the police; to obey a number of Japanese regulations, and to avoid breaking orders, printed on the back of his passport, to refrain from all business transactions while on such trip, and, by inference, to do nothing not necessary for health or scientific research, as the case may be.

Second: By another regulation, also independent of treaty, Japanese subjects may employ foreigners to perform work or service for them, and such foreigners, while so employed, may reside outside of treaty limits at such place as may

be

be most convenient for the service to be performed. Of course this resident privilege is intended to enable such foreigners to specifically perform the duties of the employment, and anything other than such duties, if not permitted by Japanese law to other foreigners, while outside of treaty limits, would seem, by necessary inference, to be forbidden to them. With these cases the diplomatic representative of the employed foreigner has nothing to do. On the contrary to enable such employé to journey to, and to reside at, the place of his employment, the Japanese employer applies directly to the government, and obtains for his foreign employé, what

what is known here as a "residence passport," but which would be more correctly described as a license or authorization to reside at the specified place where the purposed work is to be done. And if at any time during his residence at such place such foreign employé desires to take a trip in any direction over the country, for purposes of health or scientific research, which, as in other cases are the only grounds on which he is permitted to travel, the Japanese employer, and not the diplomatic representative of the employé, applies directly to the Government for a traveling passport to authorize such travel as might have been foreseen.

these

these regulations have in practice been stretched considerably beyond their strict letter, and made to serve purposes for which, apparently, they were not intended. Of the various misapplications of passports, I will speak first of ordinary, traveling passports, issued to enable foreigners to travel through the country, outside of treaty limits. In these cases it turns out, in practice, that the statement required of each applicant by Japanese law, that he or she desires to travel for purposes of health, or scientific research, as the case may be, has come to be treated as a mere matter of form and its apparent purpose to be totally disregarded. A large

number

number sixes of old residents would seem to have never known or to have forgotten of the existence of such a rule. The most frequent cases of what would seem, at first glance, to be the implied rule governing travel and residence beyonds treaty limits, namely that it should be confined to such acts as are necessarily involved in the pursuit of health, or for scientific research, is in the case of Christian missionaries and their work.

Missionaries often obtain traveling passports on the ground of health, or scientific research, and when beyond treaty limits, hold meetings and preach. They also make colourable contracts of employment with the

Japanese

Japanese, while actually drawing their pay from missionary societies in the United States under these contracts they reside in the interior outside of treaty limits, build churches, rent rooms, preach and carry on missionary work generally. But this violation of Japanese law is only in form and not so in reality. For many years past there has been a distinct and definite understanding that they may do these things.

About ten years ago the Japanese Government, without publicly changing the rule limiting travel to purposes of health, and scientific research, began to relax it, in the case of educational and missionary work. This they are understood to have done

done day privately directing the police to shut their eyes to Christian meetings, preaching and proceedings of a like character, though outside of treaty limits. Missionaries, finding that there seemed to be no objection to their holding meetings in the interior, while travelling on passports obtained for health, or scientific research, did so and the practice became general.

Soon after they began, also, to avail themselves of the regulation allowing foreigners in Japanese employment to reside outside of treaty limits, by making contracts of employment — with some Japanese friend, or member of their congregation, at merely nominal wages, and so living in the interior, and carrying on their work. At a

<u>later</u>

later period, my predecessor, Mr. Bingham, made unofficial overtures to Count Inouye, H.I.J.M's Minister of Foreign Affairs, in behalf of our missionaries, on this subject. The result was that while no change was made in the published regulations of Japan nor in the practice and form of passports, and their mode of issuance, Mr. Bingham was assured by Count Inouye, in behalf of the Government that they were cognizant of the use these passports were being put to, by missionaries, and were perfectly willing that they should continue to go on as they had been doing and, in fact, entered into a verbal agreement with Mr. Bingham for the continuance of the practice, which agreement was

communicated

communicated to the missionaries. It then became understood that they might preach and carry on their work outside of treaty limits, under the authority of the ordinary, & traveling passports obtained for pur-poses of health, or, scientific research; and also that contracts with Japanese to do nominal labor at nominal wages, were to be taken as sufficient to enable missionaries to reside outside of treaty limits; erect churches, preach Christianity, educate and do other things of a like character. This has ever since continued to be the practice and is still going on.

Comparing the present state of things with the past, there is much reason to suspect that the seeming

Treaty

hearty welcome of the Christian missionary to the interior of Japan, so striking a few years ago, was due then more to the prevailing educational craze and a desire for the foreign education generally, than to any special yearning for the light of Christianity. That the frugal Japanese head of family, was willing to overlook doctrines, perhaps not entirely to his satisfaction, for the sake of getting a cheap school-master. With the change of opinion as to the advantages of foreign education, has come a revulsion of feeling toward the foreign educator. He is not as popular as he was.

That there is a reaction against the

the foreign education is demonstrated beyond question by the pronounced falling off in the attendance at the schools. This has been notably the case with the attendance at the girls schools at Tokio. There is a falling off of that class of scholars, of more than fifty per cent. the last year. From a period commencing ~ about four years ago a great number of young Japanese ladies of the ~ higher classes, and even married women, the wives of prominent ~ officials, attended day schools kept by missionaries. As to this latter class the attendance has entirely ceased. With this reaction I need hardly say that the position of the missionary-teacher has become less satisfactory

satisfactory from every point of view.
We now confront the solid superstition of the ~~ancient~~ faith of the country, with its established priesthood, and with no aristocratic social buffer, to soften the threatened blows. Of course this teaching and preaching and proselyting beyond treaty limits, under a private and almost secret arrangement, between the United States Legation and the Foreign Office, is an exceedingly unsatisfactory state of things, and under this change of popular feeling and possible reaction, a state of things bearing severely and harshly upon our fellow-citizens engaged in missionary work.

In the first place, the understanding being

being probably unknown to the Japanese public in general, it forces our Christian missionaries to ~ occupy in the eyes of the Japanese the appearance of being willing to reside and do Christian work in the country by means of a trick played upon the laws and Government of Japan. And there seems to be no way of explaining the facts as they actually are, and thus ~ demonstrating the injustice of the belief. When I first arrived in Japan I found the practice firmly established and apparently there was nothing for me to do but to follow along in the groove already made. But the manifest change of feeling in the country

commencing

commencing last year with the opposition against Count Okuma's treaty measures, accompanied as it was by a marked increase in the difficulties thrown in the way of obtaining passports for all foreigners, directed my attention to the entire question. The regulations bearing upon the issuance of passports, it is true, have not as yet been changed, but the existing rules have been construed with a constantly increasing strictness and technical spirit, that has been at times harassing to the Legation and exceedingly inconvenient to persons desiring to travel beyond treaty limits. Applications have been delayed and finally denied because of such slight, perhaps clerical, mistakes

mistakes as setting down incor-
-rectly, the order of sequence in which
towns occur along the route of travel,
and other matters that seem to us,
at least, equally unimportant, though
confessedly in technical violation
of the rules. This ~~[illegible]~~ is ~
understood to have been in accor-
-dance with the policy announced
by Count Okuma on taking office.
The position he took, if I understand
it correctly, was that in as much
as foreigners in Japan claimed the
right of extra territoriality and ~
exemption from Japanese laws, that
he would give them their treaty
rights, and as little beyond that as
possible. This policy has been ~
translated into English as the
"inflexible

"inflexible policy" and was adopted for the avowed purpose of forcing a revision of the treaties. Count Okuma and his successor, Viscount Aoki, are acknowledged to be men of the broadest and most liberal views, earnestly anxious to place their country on a footing with Europe and America; yet the former was willing to lay out such a policy and the latter has enforced it, if possible, with even accelerated vigor.

Some weeks ago a missionary lady, by name Miss Johnson, was found to be residing at a town on the northwest coast, quite across the island, between one- and two-hundred miles from here, where she was engaged in educational and missionary work

worse. She was quite alone so far as her countrymen were concerned, being, I believe, the only foreigner in the place. It turned out that she had made her way to this place and settled down to her task, by authorization of an ordinary traveling passport taken out for a specified trip on the ground of her health. The character of the lady showed her to be one utterly incapable of any attempted subterfuge and it is certain that she had taken out her passport and gone under a complete belief in her right, legally and morally, to do what she was doing.

My attention was called to her by receiving an application returning

returning her passport, the six months having expired, with the request that it be renewed for another time period. On sending the application to the Foreign Office there came an abrupt refusal, and an inquiry what the lady was doing at that place; it being without treaty limits, and her passport having expired. As I need hardly say, after stating the law above, there is no such thing as a renewal of a passport. That each application is an original proceeding to enable the foreigner to make a trip for health, or scientific research over a specified route, to be completed within a specified time. Miss Johnson ought, therefore

therefore to have got back within treaty limits, in fact to her starting point, before her passport expired. She had not done so, and was therefore outside of treaty limits against the laws. I attempted to obtain permission for her to make her way ~~to~~ into the nearest treaty port, which was Niigata, some twenty miles from the place where she had been at work; but the privilege was refused. From Tokio she had set out on her trip, and back to Tokio she must come. I could not prevent this manifest hardship and so, under police surveillance, at considerable expense and great inconvenience she returned to Tokio. Under the "inflexible policy", a similar

similar cases are occurring and seem to be on the increase. I have not mentioned this case for the purpose of criticizing the policy of H.B.M.'s Government. It is manifest that the ruling is not enforced for the purpose of oppressing any one of our countrymen but for purposes political or diplomatic, of which we must concede that they are the proper judges. It has brought me, however, to a realizing sense of the very unsatisfactory position in which our missionaries now in Japan are occupying.

I found that on the surface, at least, they were habitually doing things that were apparently public violations of the law of the country

courtesy. I found no record or reference in the archives of the Legation to the supposed understanding between Mr. Bingham and Count Inouye. I considered it important that if such an agreement existed that ~~at least~~ I ought to have some knowledge of it, at least by verbal recognition from the present Government of H. I. M. Accordingly a short time ago I called upon H. E. Viscount Aoki and stated to him the case as I understood it to be. I then asked him that we come to an understanding. I said to him in substance that I was perfectly aware that H. I. M's. Government only issue passports

passports for foreigners to travel beyond treaty limits upon two specific grounds, namely, first, for the purpose of health; second, scientific research. I admitted that by fair implication foreigners traveling under such passports have no right to do any other business, outside of treaty limits. That I was also well aware that they can only reside in such places taken employed by Japanese and that ordinarily this would mean a genuine employment for a genuine purpose; But that I was aware that missionaries and teachers sometimes violated both of these implied conditions. That they held meetings and did missionary

missionary work while traveling on passports issued for health and that they reside in the interior and do the same thing under pretext of contracts with Japanese that are merely colourable. But, I said, "they do these things under "what they believe to be a full and "perfect understanding with the "Japanese Government, had "several years ago, which under-"-standing was accompanied "with a distinct assurance that "there was no objection to such "proceedings". I then stated that I wished to learn directly from H. I. J. M's. Government if it were true that such an understanding was had and

such

such an assurance given; and if yes, whether that understanding was still in force. That as matters now stand I felt it due to my countrymen if they were to continue to exercise these privileges that they should do so with a clear understanding had with me, such as would justify me in demanding protection for them should they at any time be charged with violating the laws. That if I could not have this understanding, I should advise them to stop the practice in future. I stated to H. E. that I had not come to urge any extension of the privileges of American

citizens

citizens beyond those granted in the treaty, nor even to continue in force those which appear to have grown up by custom; but simply to find out where we stood, so that I could tell them what they could do, and what they could not. The result of the interviews, which was of considerable length, came to this: that I was informed that H. B. M's. Government were perfectly aware that the facts were as I had stated them; that travelling passports were systematically used in the way, and for the purposes I have stated; and that the contracts of

employment

employment by which missionaries resided and worked in the interior were merely colourable; but that both practices were satisfactory and agreeable to the Government. It was agreed, as the result of the interviews that the practice might be continued in the future in the same manner that it is going on now.

I do not inform you of this as of an entirely satisfactory conclusion, for such it certainly is not; but as the best thing attainable if missionary work is to go on in Japan.

It is a regrettable circumstance that what has so long been conceded by the proper authorities

privately

privately, and by verbal and unofficial understanding, could not be put into the form, either of a written treatise, or practice, or of an Imperial decree, and thus published to the world, so that no question be hereafter raised.

Under the present practice it has always been in the power of the priests or professors of the ancient religion of the country, to receive with apparent justice, insidious criticisms of what they with good force, have claimed to be a misinterpretation of Christian teachers, and inconsistency with Christian precepts.

There is no reason to doubt that the Ministers of H. I. J. M.

who are gentlemen of great breadth and liberality of views, are, and always have been, entirely willing, provided that Christian missionaries, and teachers, should propagate their religion, and make proselytes, not only within treaty limits, but anywhere in Japan. And, there seems to be good reason for believing, that they have intentionally observed the provisions of the Japanese laws and regulations by which alone it has been done. That they will continue to observe these provisions, as long as possible, seems in the highest degree probable. But there is some danger that as the popular reaction against the crude and

and over-rapid adaption of the fashions of Europe and America in dwellings and increase, if such should happen, that the difficulty of protecting Christian missionaries and teachers in their conflict with the ancient religion of the country will increase in like proportion and may reach a point beyond the power of the Government to accomplish. In Already several of the Japanese newspapers of good standing, have called attention to the misuse by foreigners of residence and traveling privileges. One of these newspapers, recently proposed that in future foreigners applying for traveling passports, for the purpose of health should in such case

be

be required to furnish the certificate of a Japanese physician of good repute, setting forth the nature and extent of the disease or ailment with which the applicant is afflicted, and certifying that a trip to the place named is necessary to his recovery. And that as to those seeking to travel for the purpose of scientific research, they be required to indicate the branch of science to be investigated as well as to produce a diploma from some reputable institution of learning, in proof of their capacity to make the inquiry. That these limits are levelled mainly at the missionaries and

teachers

teachers, there seems to be little reason to doubt. It would be too much to say that any considerable danger threatens any class of our citizens in Japan. But the main risk, be that much or little, is certainly increased by the missionary and educating classes. So far as our merchants are concerned, I do not anticipate any danger to themselves personally, nor, to their trade, as likely to arise from anything that I can now foresee. The foreign merchants settled in Japan reside and carry on their business in restricted territorial concessions, at the water-fronts of sea ports, and what

what is of more importance, quite apart from the great mass of the nation. In the settlements where they live at the open ports of Yokohama, Kobe and Nagasaki they are surrounded by a Japanese population, that has been called together solely for the purposes of trade, and for trade with them; and which trade is mutually beneficial, and to the continuance of which, the presence of the foreign merchants is essential. Under these circumstances, the racial, and religious antagonisms, if any such exist, are naturally kept at the minimum. This, unfortunately, is not entirely true

of

of the foreign residents of Tokio.

While the capital is an open port, by treaty, and has at Tsukiji a concession for the residence of foreigners, such for-eigners as reside there, are not merchants, but are generally missionaries and educators. As an open, or commercial port, Tokio has entirely failed.

It is obvious that one of the serious difficulties in the situation as respects our fellow citizens engaged in missionary and educational work, lies in the fact, that the Government is unwilling to concede to them openly and publicly, that recog-nition that the Ministers promise to

to the diplomatic representatives of the United States, privately and verbally, and which the police throughout the country, give to them openly by protecting their meetings, and overlooking what appear to be violations of the regulations governing traveling passports. This system is unsatisfactory because it can never be known at what moment it may break down, or, what inconvenience or even hardship may fall upon those who happen to be involved in the failure when it occurs. Great injustice might be done as the result of this concealment of their actual relations with the Government. It is to be borne in mind

mind that the missionaries are scattered over the country in isolated localities, at considerable distances apart. That many of them are women, and in some cases unaccompanied with men of their own nationality. That many, if not absolutely ignorant, are by no means well informed of their own treaty rights, or, of the Japanese laws and regulations governing foreigners in the country. They are very enthusiastic in their work. They generally become greatly attached towards the people of Japan, amongst whom they live, growing out of this natural kindliness — characteristic politeness and graceful bearing of this

this charming people, and no doubt ~~as~~ seldom feel called upon to think whether they are lawfully, and according to Japanese regulations, living, and working, at a place, or not. They know that they are in Japan, under the general instruction of their missionary society in America, in good faith performing their duty. That they have a passport from the Japanese Government which has enabled them to get to this place. and in very many instances that is about all they do know, on that subject.

With this statement of the situation I have the honor to ask your opinion as to the advisability

advisability of communicating to the American missionaries in Japan a summary of the laws and regulations applicable to foreigners within and without treaty limits, so far as I can ascertain them, by means of a general circular prepared and addressed to them for that purpose. If you think it would be a benefit to offer them any advice as to their own conduct and will instruct me as to the general line of such advice or even as to its detail, I shall most cheerfully conform to your views.

I cannot regard the present as an appropriate or reasonable occasion

occasion for a diplomatic effort for enlarging the privileges of foreigners to either travel or reside outside of treaty limits. The Government of U.S.A. are obviously anxious to do their full duty to foreigners under the treaty and to uphold the good name of the country; and this, as it seems to me, under manifestly increasing difficulties. This being the case, they are deserving of sympathy, countenance and all reasonable forbearance on the part of foreign powers. All privileges of foreigners but especially those not created by treaties should be exercised in such way as to embarrass the Government as little as possible till

till the crisis is passed. The approaching session of the first Japanese Parliament is an event so important at the same time so uncertain in its bearing and influence that it is hardly likely any very important matter will be taken up and considered by the Government until that body has met and deliberated. Should the representatives of the people demand any material curtailment of the privileges of foreigners it is difficult to say what may be the result; and, from the present aspect of things it is certainly much more likely that a curtailment will be demanded than an increase. If anything could be

be done by which during the approaching autumn and winter citizens of the United States, especially those living out of the commercial settlements, could be saved from mental uneasiness and anxiety, the Ind would certainly be deserving of any reasonable effort.

I have the Honor to be
Sir,
Your obedient servant,
John T. Sprague

DEPARTMENT OF STATE
JUL 3 1890
RECEIVED.

DIPLOMATIC BUREAU.
JUL 7 1890

No. 125

Legation of the United States,
Tokio, Japan, June 3, 1890

Mr. Swift
To the Secretary of State.

ackd (draft of a.a.a) June 9, 1890 Phillips

Subject:
Application of J. H. Wigmore for police protection.

No. Legation of the United States.
Tokio, Japan, June 2, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D. C.,

Sir:

I have recently been applied to by John H. Wigmore, a citizen of the United States residing in a quarter of Tokio outside of treaty limits, to use my influence with H. I. J. M's. Government to have a certain police station, which he informs me was recently removed from his neighborhood, put back again.

The circumstances of the application in detail are as follows

Williams. Mr. Wigmore lives outside of treaty limits by virtue of his employment as professor of law in a school kept by Mr. Furukawa, a Japanese subject. His residence happens to be in the same quarter of Tokio and within a short distance of the house where the Rev. J. A. Large was murdered, the facts of which shocking affair I detailed to you in my No. 113 ——, dated the 14th of April, 1890. On the day following the murder Mr. Wigmore called at the Legation in an evident state of alarm. In company with his young wife, he had but recently arrived in the country.

cavalry from the United States
under engagement at Mr.
Furugawa's school and such an
incident as the murder of Mr.
Large, his near neighbor, with
the frightful circumstances,
was certainly calculated to
make him very uneasy.

His statement was substantially
the same as that contained in
his letter, a copy of which I
have the honor to inclose
herewith, namely, that only
a few days before the murder
the police authorities had
removed or discontinued a
certain police station which
up to that time had been
situated very near to his house,

to

to which withdrawal of police protection he considered the affair, to some extent, due, and asked me that as a measure of security to himself and his family, as American citizens, to exert my influence, unofficially, as he put it, upon the Japanese Government to have the police station restored. He treated the case of Mr. Large as one of ordinary robbery and murder, and it was as a protection to his house against burglars and robbers that he desired the restoration of the police station.

I told Mr. Wigmore that I doubted whether it would

would be right for me to demand or even to request of the Japanese Government that they make extraordinary or exceptional provisions for the protection or security of a citizen of the United States living voluntarily outside of treaty limits in Japan from any threatened ——— danger common alike to himself and his Japanese neighbors. And I asked him why he and the others in that neighborhood did not themselves address the police or other proper authorities, directly, on the subject. He answered that that had been thought of, but that he

and

and his friends considered that the application would come with much more force from me as Minister of the United States: and he added that he considered that under the standing instructions of the State Department to the diplomatic agents it was my duty so to do. The particular instruction to which he referred he has since pointed out to me in his letter, a copy of which is enclosed. I replied to him that I was not aware of any instruction that would require me to interfere in such a case as he had described, and positively refused to do so.

For

For this refusal, in addition to the general principle of not interfering, under ordinary circumstances, in such a case, there were special reasons for not approaching the Government with such a request at that time.

While the death of Mr. Large was generally thought to have been an ordinary affair of murder growing out of an attempt at robbery, I had, from the first, considerable doubt upon that point. There were reasons for suspecting it to have been a case of personal malice and revenge, probably complicated with race antagonism and hostility

hostility to foreigners as a class. I understand and believed beyond doubt that the Government of H. I. M. were greatly chagrined and mortified at the dreadful occurrence and were making extraordinary efforts to discover and punish the perpetrators. It also appeared to me that to approach the Government at such a time with a request for the special protection of a particular family situated like that of Mr. Wigmore, when possibly the entire foreign community might be in danger would be an expenditure of energy that might at any moment

moment be needed for a more important purpose. It is to be borne in mind that one of the grievances the people of Japan hold against foreigners is their acknowledged unwillingness to submit themselves to Japanese law or to be satisfied with the ordinary protection accorded by the country to their Japanese neighbors. Within the last few days the Mainichi Shimbun, one of the most important newspapers of Japan, complained editorially of the Government, as rendered by the translator of this Legation, because "it (the Government) makes

"makes too much of foreigners,
"looking out better for them than
"for their own people." And I
have reason to fear that in the
present state of things, for the
Government to go out of its way
and grant special police protection
to a particular foreigner, especially
one living outside of treaty limits,
and amongst the Japanese people
would bring that foreigner into
disagreeable prominence, and, if
he were in actual danger,
might rather add to and increase
that danger, instead of
diminishing it. And inas
much as Mr. Wigmore had
voluntarily availed himself
of an arrangement with his
Japanese

Japanese employers by which he obtained a privilege denied to the main body of his own countrymen, that of living and carrying on his vocation outside of the treaty limits, I thought that for me, either officially or unofficially, to ask special police protection for him would be an interfering with the internal affairs of Japan, neither justified by my powers nor falling within the line of my duty and liable to be regarded by H. I. J. M's Government as an officious impertinence. In my conversation with Mr. Wigmore,

I believe that I did say something that might fairly be construed as a distinction in my mind between his own case as a resident outside of treaty limits and that of citizens of the United States settled in the foreign concessions at Tientsin.

I believe I did say that if I could be convinced that the citizens of the United States living in the foreign settlements were in manifest danger, I would consider it to be my duty to call upon U. S. Government for sufficient police or other force to protect them and also take any steps authorized by law and usage

to

to provide for their security.
I also said, in substance, that
as to my fellow countrymen,
either residing or travelling
outside of treaty limits, if
they did not feel that the
protection provided for them by
the Japanese Government was
sufficient to provide for their
safety, as matters now stood
and under ordinary circum-
stances, there was nothing
for them to do, that I could
see, but to either come into
the settlement or quit the
country altogether. That I
did not see how I could ask
the Japanese Government to
treat them any differently from
what

what it treated its own people, at least so far as police protection is concerned.

At the same time I assured him that I by no means considered that his being in Japanese employment or residing without the foreign settlement placed him out of the protection of the United States. That, on the contrary, he was always under the protection of the United States, wherever he might be in Japan, and that in any proper case I should, without hesitation, use my best efforts to maintain the security and safety of himself, his family and belongings

belongings, and for that purpose would call to my assistance every means within my lawful influence or control.

I also declined to say, in advance, in what case I would or would not take Spical measures for his protection.

On the contrary, I specifically refused to do more than to decide upon the application then made, which I did by denying it.

I did, however, agree that I would take the application in writing and forward it to the State Department for instructions, which I said I had the honor to do.

Although

Although Mr. Wigmore's letter bears date the 16th of April, it was not delivered at this Legation till the 25th instant, which discrepancy I explain in order to show that I have not been wanting in promptness.

Under the foregoing circumstances I have the honor to request that you will instruct me as to whether it is or is not my duty to use my influence with H.I.J.M's Government, unofficially or otherwise, to have the police station restored to its former place near Mr. Wigmore's

house

Power. At the same time it would be an advantage if I could be instructed as to what extent, if any, and under what circumstances, it would be proper for me to ask of H. I. J. M's Government Special police or other protection for citizens of the United States residing or travelling outside of treaty limits, whether as employés of the Japanese or in any manner whatsoever.

I have the honor to be,

Sir,

Your obedient servant,

James H. Swift

Enclosure: Copy of Mr. Wigmore's letter, April 16

Enclosure with Mr. Swift's No. 125.

Copy.

13, Miyamuracho, Azabu-ku,

April 16, 1890.

Honorable John F. Swift,

U. S. A. Legation.

Sir:

Permit me, in connection with the murder of Mr. Large, on April 4th, which took place in Azabu near my own residence, to call your attention to a circumstance which is, I think, in some degree responsible for the outrage. Near Mr. Large's house (one hundred and fifty yards away) has been a police station; near my own house (at about the same distance) has been another; but these, with a third in the vicinity, were abolished by the authorities on the last day of March. On the night of their withdrawal there occurred an attempt to enter our house, and now, on the fourth succeeding night, has followed the burglary at Mr. Large's house and his murder. The withdrawal of the police stations seems to have been followed immediately by these fellonious acts.

I thake the liberty, therefore, of asking you whether you will not kindly represent the situation to the proper authorities on our behalf, and ask that the stations be restored. I do not suppose that any formal intervention will be necessary, but merely an informal representation, which coming from you would have the desired effect. We feel constrained to appeal to you as officially invested with our protection.

In

In our interviews on the morning of April 5th and of today, in which I made the same request of you orally, I understood you to make objection to according it on the score of my ~~not~~ residing not in the Concession (Tsukiji ward), but without it (Azabu ward) under a passport from the Japanese Government, residence of the former sort being a right secured by the Treaties, residence of the latter sort not. Begging for the present to waive the question whether in either case United States citizens are entitled to claim equal protection at the hands of the Japanese Government, I have the honor to call your attention to the following extract from the U. S. "Printed Personal Instructions to Diplomatic Agents, 1885," It is their duty to endeavor on all occasion "------- to protect all privileges that are provided by treaty or are conceded by usage." Now the residence outside of the Concession of foreigners employed by Japanese (to which class I belong)is, I take it, a "privilege conceded by usage." The form of the passport is a printed one, and is granted as of course to all bona fide employes of the Japanese. I will beg you, therefore, to take the above clause into account, and to reconsider your opinion so far as it rested on the consideration that I resided without the Concession. If it is true that United States citizens who reside without the Concession are a wit less entitled to the protection of the Diplomatic agents of their Government, it is highly important for them to understand that fact, and to have an authoritative declaration of it, for I conceive that hitherto they

they

they have without exception been under a complete misapprehension.

I regret the necessity of troubling you in the matter, and have the honor to be

Your obedient servant,

JOHN H. WIGMORE.

DEPARTMENT OF STATE
JUL 3 1890
RECEIVED.

2d ASSISTANT SECRETARY.
JUL 2 1890

DIPLOMATIC BUREAU
JUL 5 1890

No. 136.

Mr Cridler

Legation of the United States,
Tokio, Japan, June 7, 1890.

Mr. Swift
To the Secretary of State.

Subject:
Settlement between Mr. W. Imbrie and the School Authorities.

No. 126.

Legation of the United States,
Tokio, Japan, June 7, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

Referring to my No. 121, of date May 20th., relating to the assault made by certain Japanese students upon the Rev. W. Imbrie, I now have the honor to make a further and, I trust, final report upon the regrettable incident.

As you will observe by the correspondence, copies of which I have the honor to enclose herewith,

the

the affair has been settled between the parties immediately concerned, seemingly to their satisfaction, when it is understood it will be allowed to rest. That the students, without a shadow of provocation, except that he was a foreigner, assaulted, beat and wounded Mr. Imbrie and but for the fortunate interference of his friends might have ended by killing him, seems to be the facts of the case.

That this affair has been allowed to drop without the guilty parties being either punished by the courts, or reprimanded by the school authorities, is due to the altogether exceptional state of things existing at this time in Japan. It was from the first the opinion of Mr.

Imbrie

Imbrie and of his friends, the American missionaries of Tokio, in which opinion I concurred, that to make any open effort to bring the perpetrators of the assault to condign punishment would probably fail; and, if successful, would most likely end by closing the career of Mr. Imbrie in Japan for an indefinite period, if not permanently.

Under these circumstances there seemed to be nothing for him to do, but to promptly condone the offense and try to hush up the matter as well as he could. I was privately given to understand that at the beginning of the negotiation between Mr. Imbrie

And

and the school the students demanded an apology from that gentleman for violating their rules in crossing their ledge to enter the play grounds. They afterwards withdrew that claim but insisted as a condition precedent to their making any reparation or apology for the wanton assault, that the United States Minister should not interfere. Of course I know nothing of this till after the affair had been settled between the parties. And I only state the facts in order that you may understand the arrogance of the students and be able to appreciate to some extent what seems to me to be the utter inadequacy of any means within reach to properly deal with

such

such a case. The incident, while comparatively trifling in itself, is serious because of its being a symptom of a disorder deeply rooted and wide-spread in the social condition of Japan. I feel perfectly confident that the intelligent and broad-minded statesmen now conducting H. I. M's Government would suppress and put down every demonstration of hostility or dislike to foreigners, were it in their power to do so. But it is only too easy to perceive that there are great if not insurmountable difficulties in the way of their accomplishing so desirable a result. The Japan Mail, a leading English newspaper published in Yokohama, in commenting recently on the

maltreatment

mistreatment of the Rev. Mr. Summers, intimates clearly the true state of the case. Upon view of the supposed danger that threatened Mr. Summers, claimed to have been the cause of his hurried departure from the country that paper said: "the Japanese "Ministers of state do not themselves "enjoy greater or equal immunity. "They receive unceremonious visits "and threatening letters from "'yoshi', and occasionally have "their secretaries slapped by these "hair-brained youths."

And the above named journal might justly have gone even further and reminded its readers that when the political measures of Japanese statesmen are not satisfactory to a certain

certain class of their countrymen, the Ministers are liable to be ruthlessly cut down and hacked to pieces with razor-bladed swords, in ancient Japanese fashion, or even blown up with the modern dynamite bomb. Examples of which we have recently had in both kinds.

Every day of my sojourn in Japan I am more and more impressed with the great difficulties inherent in the situation that confront the statesmen and rulers of the country. The existing conditions may be fairly traced to their source in the ancient customs of the country and were from the first inevitable. Up to a period within a quarter of a century Japan was governed by a system

PTO

so completely unique and unlike any other government known to civilized people, that to this day it is hardly comprehended by the most diligent inquirer.

This much we do know however, that the government was a creation more than usually artificial, composed of a conglomeration of odd, extravagant and complex customs, all tending to emasculate the central authority. The central government of Japan, like that of China, though seemingly despotic, has always in many important respects fallen far short of the general strength and energy of European absolute monarchies. The ancient government of Japan seems to have been

been a despotic ruling of the lower classes by the superior or soldier class. It was a diffused despotism instead of a centralized one. In the place of one acknowledged despot, the number approached nearer to millions. The Daimios, or territorial chiefs, exercised in their respective provinces absolute power, executive, legislative and judicial. These local rulers, in turn, were held in a certain state of ceremonious subjection to the Shogun, by a custom requiring them to leave their families in Tokio, the Shogun's capital, where they were held substantially, as honorable hostages. But even in Tokio, within the limits of their own yashikis which were a species of fortress,

the

the daimio was, by the custom of the country, sovereign and supreme. Here, surrounded by his two-sworded retainers, he was a law unto himself and could even defy the Shogun. And in this respective provinces each daimio, as to all other daimios, was, for all practical purposes, a sovereign prince. His subjects and followers, whether within his own province or elsewhere, even at the Shogun's capital, were amenable to his authority only. Over them he alone had the power of life and death. No other daimio nor even the Shogun, could punish them for offenses, no matter against whom committed.

Nothing like the ancient criminal

criminal laws of Japan have been severer than, at least in modern times. Each individual of the superior or soldier class held, ~~in theory~~ in practice, the power of life and death over the lower classes, which lower classes comprehended farmers, merchants, mechanics and laborers, and could kill them practically at pleasure. Having slain a merchant or farmer, the Samurai wiped his sword, repaired to the yashiki of his lord and explained that the dead man had failed to pay him due respect, and the affair was ended. On the contrary, for one of the lower class to kill, even in self defense, one of the superior or soldier class, without

respect

respect to his special rank in that class, was not only to insure his own certain death, but the extermination of his family. If a common man, even by accident, touched or jostled the person of a samurai or two-sworded man, while passing in the streets, the unfortunate wretch could be remorselessly cut down on the spot. When a samurai killed a samurai of a different clan, he pinned a paper upon the body containing his statement of the facts of the quarrel, appended his name thereto, and then repaired to the yashiki of his immediate chief, the daimio, and there told his story. Once within the

precincts

precincts of his lord's enclosure, though in the Shogun's capital, no power in Japan, save his own daimio's, could call the man-slayer to account. The daimios almost always shielded his retainer when possible, either by open defiance of the other clan or by secretly concealing and spiriting away the accused; and only in very rare instances, when the daimio was not strong enough to maintain the position, was the retainer sacrificed to justice. Even then he was allowed to take his own life by the honorable Hara-kiri. This law existed up to a very recent period. Men still short of the prime of life remember perfectly

perfectly when it was in full force. Its influence cannot possibly have yet passed away. Indeed, its effect on the minds of the Japanese people can hardly have been very materially reduced.

Under this ancient system, criminal jurisprudence had been elaborated into a complex code of revenges, executed either personally or by proxy. The executioner, under certain defined and well understood circumstances and in every case to avoid implicating associates, making suicide a leading element in the enterprise.

Under this system the loyalty of the follower to his lord came to be exaggerated beyond anything known

known elsewhere in the relations between human beings. The servant looked upon the duty of dying for the honor of his Chief or to avenge an insult offered to him as his highest and most precious privilege. To kill his lord's enemy and then himself was to render his name immortal.

While this system was at its highest state of perfection and but little more than twenty years ago, a sudden revolution came about which totally abolished the Shogunate, made the Mikado the actual as well as the nominal Chief of State and merged the functions of the two places in the Imperial Power. At about the

same

same time the so-called feudal system was abolished and the power of the daimios was also, at least nominally, surrendered to the central authority. But can the traditions of centuries be forgotten in a single life-time? The daimio has passed away but it is doubtful if any governing force equally strong in its grip upon society has arisen to take its place. Tribunals have been established for the trial of law-breakers. New, westernized codes have been enacted, drafted by learned, European professors of laws, defining crimes and fixing punishments. They are modelled upon the system in vogue in

France.

France, perhaps the most law-abiding community on the globe and where similar laws have operated so admirably in restraining and preventing crime. But, in spite of all this, patriotic assassinations still appear to retain a certain charm for the popular mind. Two Cabinet Ministers, each of the most exalted character, have been stricken by assassins within a single twelve-month. That such dangers, ever present, must unsettle the nerves and disturb the purposes of the bravest statesmen seems to me to be indisputable.

Against the assassin who calculates on saving his own life, appreciable measures of precaution may be taken

taken; but the glory of the Japanese patriot is that he counts death. There is some danger that any extraordinary measures in the way of punishing or suppressing hostile movements against foreigners may bring down upon a Minister of State inforcing such measures personal perils quite as great as those against which he endeavors to protect the foreigner.

It was under these circumstances and with regard to these supposed conditions that I have refrained from asking H. B. M's. Ministers to make special enquiry into the affair of the assault upon Mr. Imbrie, or to

take

take steps looking to the punish-
-ment of the perpetrators. I feel
convinced that any small
punishment or petty humiliation
to the student offenders would
prove only a cause of additional
irritation to an angry sentiment
that, if left to itself, there is
reason to hope, will soon subside
and pass away. Should it,
however, go on and increase in
volume and become so formidable
as to require interference on the
part of the United States, it will
be both unwise and idle to go
about the matter in a piece-meal
or in any small way.

I transmit herewith several
clippings from Yokohama newspapers
commenting

commenting rather freely on the affair and the way it has been disposed of. While my own action is not distinctly and in terms called in question, I find there is a disposition on the part of the press and people of Yokohama to censure my course and I believe some of the papers have criticised me by name. Although I do not send you copies, I hear that very sharper complaints are made of me at Yoke. A prompt and often boisterous demand for a stalwart and aggressive policy is apt to be addressed to the various Legations by the foreign merchants of the treaty ports whenever any foreign right or interest is threatened.

4, 5, 6, 7, 8, 9.

For

For reasons that I have given in many previous dispatches, the merchants of the treaty ports live in exceptional harmony with the Japanese in the immediate neighborhood. They live and carry on their trade in separate, territorial concessions, set apart for that purpose, where they are surrounded by their customers, agents or friends. In Tokio the situation is altogether different. Tokio, as a commercial port, entirely failed. There is no foreign trade here. The foreign concession is not inhabited by merchants but mostly by missionaries and educators. This class comes in contact with all the religious and other prejudice remaining in the country.

To

To a considerable extent they cause the conflict and are part of it.

Torreon is the centre of any anti-foreign feeling that exists. In fact, it is doubtful if it exists to an appreciable extent anywhere else. My action, therefore, in justice to this class, who in Torreon are almost solely concerned, must be controlled largely by their interests with a view to their immediate safety and protection.

I believe that my course has been for the best and I have the honor to submit it for your approval.

I have the honor to be,

Sir,

Your

I have obedient servant,

John A. Bingham

Enclosures:

1. Mr. N. Imbrie to Mr. Swift, May 21.
2. Mr. Swift to Mr. N. Imbrie, May 22.
3. Mr. N. Imbrie to Mr. Swift, May 27.
4. Clipping "Japan Mail", June 5th.
5. " "Japan Herald", May 30th.
6. " "Japan Herald", June 5th.
7. " "Japan Gazette", May 28th.
8. " "Japan Gazette", May 29th.
9. " "Japan Gazette", June 6th.

Enclosure 1. with Mr. Swift's No. 126.

Copy.

Tokio: May 21, 1890.

The Hon. John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary of

the United States.

Dear Sir:

Messrs. Mitsuru Kuhara and N. Kojima called upon me this afternoon, as representatives of the President of the First Higher Middle School, to express regret for the action of the students on the 17th instant. They stated also that the students acknowledged themselves as having been in the wrong, and as willing to render due apology for their conduct. If therefore you should deem it consistent with the exigencies of the case, it would be a gratification to me personally if no further action on your part be taken.

Very respectfully yours,

WILLIAM IMBRIE.

Enclosure 2. with Mr. Swift's No. 126.

Copy.

No. 56.

Legation of the United States,

Tokio, May 22, 1890.

Rev. William Imbrie,

No. 16 Tsukiji, Tokio.

Dear Sir:

Your note of yesterday concerning the regretable incident occurring at the base ball match on the 17th instant and stating that it would be a satisfaction to you personally if no further action on my part be taken has been handed to me by Dr. Ammerman.

In reply I have to say that I have not as yet taken any action looking to governmental inquiry into the particular incident above referred to and sincerely hope that matters will so turn out that I can with due regard to the welfare of my countrymen in Japan avoid the most disagreeable duty of so doing. My future course in the matter will depend upon whether, in my judgment, the friendly and mutually beneficial intercourse so long existing and which I am so anxious to promote between American citizens and Japanese will be best conserved by diplomatic action or not as quite independent of your special interests or wishes. I shall certainly be most happy to find myself justified in dismissing the entire affair from further consideration and, judging from the

disposition

disposition shown by the young gentlemen concerned in the unlucky occurrence as advised and influenced by the worthy Professors of the college as related in your note, I have strong grounds to hope that nothing further will be required at my hands in the way of diplomatic action. As from the first you deprecated police or judicial action or prosecution, or any publicity in regard to the matter, of course such a result would be agreeable to you.

I sincerely wish that it may turn out that nothing more will be required, but must reserve the right to do whatever the circumstances may seem to demand.

I am Sir,

your obedient servant,

JOHN F. SWIFT.

Enclosure 3. with Mr Swift's No. 126

Copy.

Tokio: May27, 1890.

The Hon. John F. Swift,

Envoy Extraordinary and Minister Plenipotentiary of the United States.

Dear Sir:

I have already acknowledged the receipt of your communication dated May 22. In accordance with your permission, made known to me through Dr. Ammerman, I furnished a copy of the same to the President of the First Higher Middle School (Dai Ichi Koto Chi Gakko) accompanied by the following note.

Tokio: May 23, 1890.

K. Kinoshita, Esq.

President of the First Higher Middle School.

Dera Sir:

I enclose a copy of a communication which I have received from the Minister of the United States in reply to the note which I addressed to him yesterday. With the contents of my own note you are already acquainted.

Yours very truly,

William Imbrie.

After forwarding a copy of your communication I received the following note from Mr. Kenhara, Mr. Kenhara is the gentleman referred to in my recent note to your-self as the representative of the President.

(2)

Dai Ichi Koto Chu Gakko,

Tokio, Japan, May 23, 1890.

The Rev. Dr. Imbrie.

Dear Sir:

We are naturally anxious to know how things are progressing at the U.S. Legation with regard to the matter we had the pleasure of talking over with you the other day; and to be informed if quite agreeable to you, what you have since heard in reply to the note that you so kindly promised to write on that occasion. If you will kindly communicate to me on this point, I shall be greatly obliged.

Sincerely hoping that your wound is getting better now and that at no long time hence, you will have so far recovered from its bad effects, as to feel at least no great physical inconvenience.

Yours Truly,

M. Kemmochara.

The following letters were then written and received.

No. 16, Tsukiji,

May 23, 1890.

Prof. M. Kemmochara, Ph,D.

Dear Sir:

I have received from the Minister of the United States a communication in reply to my note, which I trust will meet your wishes. I handed a copy of it to Mr. Ibuka today

at

at noon with the reques that he would deliver it to Mr. Kinoshita. There was one point in our conversation on Wednesday afternoon which had not been made perfectly cleare. I therefore requested Mr. Ibuka and Dr. Ammerman to call on you with reference to it. They did so on Wednesday evening, but unfortunately found you out. They then called upon Mr. Kojima, but he also was not at home. To save time they then called upon Mr. Kinoshita (the President).

During their conversation with Mr. Kinoshita, one or two suggestions were made by him to which I was anxious to reply at the time the copy of the communication from the Minister of the United States was delivered. For this reason I requested Mr. Ibuka to proceed to Mr. Kinoshita's. Pray accept this as the explanation of any apparent lack of courtesy.

Very truly yours

William Imbrie.

Dai Ichi Koto Chu Gakko,

Tokio Japan, May 24, 1890.

Rev. Dr. Imbrie.

Dear Sir:

I have to acknowledge the receipt of your kind note of yesterday and am glad at the prospect of the matters being amicably and satisfactorily arranged between ourselves. The President of the College has expressed his great satisfaction at the turn things are now likely to take, and intends to

call

call on you next Monday with the students and make them tender an apology to you in due form. Tomorrow being Sunday he will postpone his visit till the next day purposly.

Very truly yours,

M. Kuhara.

No. 16 Tsukiji,

May 24, 1890.

Prof. M. Kuhara, Ph,D.

Dear Sir:

I have to acknowledge the receipt of your kind note, If you will do me the favor to send me a line by post, stating the hour on Monday at which I may expect the president, I shall be greatly obliged.

Very truly yours,

William Imbrie.

Dai Ichi Koto Chu Gakko,

Tokio Japan, May 26, 1890.

Rev. Dr. imbrie.

Dear Sir:

The President of the College requests me to inform you that he will call on you with the students at 4 o'clock t this afternoon.

very truly yours,

M. Kuhara.

No. 16 Tsukiji,

May 26, 1890.

prof. M. Kuhara, Ph,D.

Dear Sir:

I shall be most happy to meet the President and the students this afternoon at 4 o'clock.

Very truly yours,

William Imbrie.

In accordance with this arrangement, shortly after four o'clock the Kangi (the officer in special charge of the dicipline of the institution) of the College and Mr. Kojima (one of the gentlemen referred to in my recent note to you) arrived accompanied by four of the students.

I met them in the presence of Mr. ibuka and Dr. Knox. Mr. kojima stated that unavoidable business had prevented the president from coming in person. Two of the students I recognized immediately as two that were foremost in the assault; the third I did not recognize atall; and as to the fourth I was uncertain. Their names according to their cards are as follows: Iyenaga Taijiro; Matsuki Shigetoski; Yamakawa Shinjiro and Akuzawa Naoya. In the name of the students the Kangi expressed regret at their part in the affair. The interview closed with expressions of good will on both sides.

In conclusion permit me to repeat my thanks for your kindness throughout the affair, and to declare my entire

satisfaction

satisfaction with the course you have taken.

Very respectfully yours,

WILLIAM IMBRIE.

Enclosure No. 4 with Mr. Swift's No. 126.

The Japan Daily Mail.

YOKOHAMA, THURSDAY, JUNE 5, 1890.

THE KOTO CHIU-GAKKO AFFAIR.

IT was an error, we learn, on the part of the vernacular press to say that the lads chiefly concerned in the recent disgraceful fracas at the Koto Chiu-gakko could not be identified. On the contrary, the four ring-leaders were discovered without difficulty. In company with the Principal of the School, they repaired to Dr. IMBRIE'S house to offer apologies for what had occurred, and there the affair was allowed to end. We must again repeat our conviction that the steps taken by the Authorities in this instances have not been of a wise or far-seeing character. It is possible that the adoption of a course better befitting the circumstances of the case will be said to have been impeded by an understanding at which the Principals of the Meiji Gaku-in and the Koto Chiu-gakko arrived the morning after the assault. These two gentlemen are said to have then agreed that the best plan would be to hush the matter up, and they seem to have acted thenceforth in pursuance of some such compact. Very probably the students of the Koto Chiu-gakko, made cognisant of what had been resolved, gave up the names of the ringleaders on the tacit understanding that no serious punishment should be inflicted. The sequence of events is easily explicable on these hypotheses. But most assuredly the Principal of the Koto Chiu-gakko ought never to have consented to such an arrangement, unless he laboured under a very false impression as to the nature of the assault committed on Dr. IMBRIE, and even then he is much to blame for not having ascertained the exact circumstances before pledging himself to any course of action. We write without any feeling of resentment or the slightest desire to see the students punished merely because their offence was committed against a foreigner. If Dr. IMBRIE can afford to forgive his assailants, the grace of his action will not be marred by remonstrances on the part of other foreigners, who, for the rest, know how to protect themselves in case of emergency, and know also that in addition to the resolve of the Japanese Authorities to protect them, they can rely on their own Governments. Protection, indeed, is a term wrongly applied in this context. There is no real question whatever of safeguarding the persons of foreigners against dangerous assaults. We fully recognise that there exists among certain Japanese to-day a desire to re-assert themselves *vis-à-vis* foreigners; an anxiety to exact as much consideration as they are required to show; that, in short—to use a vulgar but expressive phrase—they are determined not to be "put upon." Such a frame of mind may possibly be translated into rough action when it prevails among hot-headed students or half-educated patriots, but it does not include any element of ferocity and has nothing whatever in common with the old-time spirit which made Japan a rather warm place for foreign sojourn. Recognising this, we are not much concerned because the conduct of the Koto Chiu-gakko students did not entail deterrent results. It is stated, and the foreign public will be quite willing to accept the statement, that a keen sense of the disgrace inflicted on the school is felt by the faculty and students. We can therefore afford to regard the affair entirely from the standpoint of Japanese reputation and Japanese interest, and from that standpoint we have no hesitation in saying that a great mistake has been made. At no school in Europe or America where any respect is entertained for discipline, would such conduct as that of the Koto Chiu-gakko students have been condoned for the sake of a mere apology. Never was there a greater error than to imagine that discipline and docility are unbecoming to men of social position. Among the precepts drilled into the mind of an English lad none takes prominence of the sound old maxim, "by obedience learn to command," and none has contributed more materially to the formation of a national character which excels in its ability to command. Unless we read the annals of old Japan very superficially, this same principle used to be fully recognised and acted upon. But it seems to have fallen out of the educational programme of the present day. Students virtually take charge of their schools, dictate to their masters, and are enabled to escape the just consequences of offences which no responsible or self-respecting institution ought to overlook. There was originally no reason why the

conduct of the Koto Chiu-gakko affair should not be left entirely to the discretion of the School's Principal; but the Educational Authorities are now concerned to see that the exhibition of mistaken leniency made by that gentleman is not suffered to pass without an emphatic mark of disapproval. The case of SAITO SHINICHIRO was of a wholly different complexion. That silly zealot took care not to expose himself to police restraint. The utmost notice which the law could anywhere have bestowed on his proceedings would have been to bind him over to keep the peace. But Dr. IMBRIE was assaulted and wounded under circumstances which justified nothing more than a verbal remonstrance against his manner of entering the school enclosure. In his case the steps adopted by the principal of the school were palpably inadequate and unbecoming, and the Authorities will show weakness and imprudence if they allow the matter to rest where it is. Some writers have suggested that the Foreign Office should take action, but we fail to see what that Department has to do with the matter unless it is diplomatically approached; and since, on the one hand, Dr. IMBRIE is satisfied, while, on the other, no question of protecting the persons of foreigners really exists, diplomatic interference would obviously be without warrant. The affair rests with the Minister of Education, an official whose firmness and sound judgment have always been conspicuous. We hope that for Japan's sake he will take measures to remove the stigma under which she will assuredly rest if this very lame settlement of the Koto Chiu-gakko scandal receives Governmental endorsement.

Enclosure No. 5 with Mr. Swift's No. 126.

The Japan Daily Herald.

FRIDAY, 30TH MAY, 1890.

We are still awaiting with much interest, which is shared by most foreigners in Japan, the *denouement* of the IMBRIE affair, and we fully expected to have seen an announcement in the *Choya Shimbun* this morning, that it had received official orders to withdraw its previous statement. The question is not one betwixt Dr. IMBRIE and the students who attacked and wounded him, but embraces the much wider question of the protection of foreigners in Japan. If the authorities of the school cannot discover the culprits, we have but little doubt that the police could do so, and if they find it really impossible, then let the whole class to which the culprits belong be dismissed from the school and punished, as sharing in the guilt of the actual offenders, who certainly must be well-known to many of them. It is high time for the Government to interfere. It is not as if this were an isolated case, but numerous recent cases of stone-throwing and of insults to foreigners in the capital, not to mention the recently reported shooting case, which has never yet been published in the papers, and is only mentioned as a profound secret, prove that the half-educated *soshi* are rapidly getting the upper hand, and are by every means in their power evincing their hatred to foreigners. That the Government are opposed to this feeling, we know, but it would seem that they lack the courage to put it down with a strong hand. The consequence is that many people feel inclined to echo the sentiments of a highly placed official, who, in reference to the recent attacks on foreigners, said that the Government were incapable of protecting foreigners, as they could not even protect their own Ministers except by surrounding them with a guard of policemen! It is for the Government to prove that this is not the case, and that they can and will protect those who place themselves under their *ægis*. Every one of these incidents goes home and is commented upon in the public press in Europe and America, and no doubt in the latter is embellished with those sensational headings, with which an American editor knows so well how to excite the interest and appeal to the sympathies of his readers; and if it be found that the authors of these offences escape punishment—no matter what may be the reason given,—there will be an end, for some years at least, to any prospect of treaty revision; and its opponents will, amid an assenting chorus, repeat that this is only what they have all along contended, that foreigners would not be safe in this country under Japanese laws. Foreign sympathy has, up to the present, been on the side of the Government, because it was felt that they had a very critical period of Japan's history to traverse, and any difficulties they might have would be enormously increased by the near approach of the meeting of the Diet, and it was thought hard upon the Ministry that all these extra international troubles should be sprung upon them at this moment. But it must be remembered that they were warned long since, both by the foreign and native press, of the extra need for precaution; of the necessity of restraining with a strong hand the turbulent classes, who were bound to come to the surface in times of popular political excitement. This, however, they do not appear to have done, and now we have the laws broken and foreigners attacked and assaulted by mobs of school boys, and the authorities seem afraid or unwilling to punish them for their conduct. It is time therefore for the Government to assert themselves, and by bringing the recent offenders to justice, to vindicate their position in the eyes of other powers, and at the same time to prove to would-be disturbers of the public peace that any outrage will be sternly and remorselessly punished. The knowledge that punishment, swift but certain, would follow any outrage, would do much to check these students' outbursts, and at the same time the principals and masters of the various institutions should also be held responsible for the conduct of those under their tuition, inasmuch as if the students had been properly trained, they would have learned better than to commit such offences. If a regiment is found in a bad state of discipline, and notorious for bad conduct, it is not so much the privates who are blamed, as the commanding officer, and if not removed from its head, a black mark is put against his name. A system such as this would probably be found very effective in regard to educational institutions, for it must not be forgotten that the moral training in a public school is equally important with the educational.

Enclosure No. 6 with Mr. Swift's No. 126.

The Japan Daily Herald.

(WITH SUPPLEMENT.)

THURSDAY, 5TH JUNE, 1890.

THE *Japan Mail* confirms what we previously stated, that the culprits in the attack on Dr. IMBRIE, are known, and it adds that they have been compelled to apologise. It also contends - in which we cordially join it—that for an assault such as that of which Dr. IMBRIE was the victim, an apology is not sufficient. To apologise for some hasty word may be well, but youths who resort to brutal assaults and wounds should not be allowed to escape in any such a manner. We wonder that—for their own sakes—the Principals of the school should be willing to allow such a disgrace to the institution and its discipline to escape in such a manner. The *Mail* offers a wise suggestion, that the Minister of Education should now take the matter up. We trust that he will do so, and will make an example not only of the culprits, but also of the Principals who appear to be so ready to condone the offence. The question of the discipline of students is one of the most important of the present day, and they seem, to foreign eyes, to be gradually throwing off all restraint. So long as this was confined to turbulence amongst each other, or disregard of the authority of their instructors, foreigners did not trouble much about it, although they foresaw the origin of greater troubles in this unrepressed disorder but when foreigners are attacked and stabbed, the matter assumes wider proportions, inasmuch as assaults of this description are calculated to have serious consequences so far as the foreign relations of Japan are concerned, especially if the opinion once gets abroad that they are condoned by those in authority. We await therefore, with much interest, the further action of the Minister of Education.

Enclosure No. 7 with Mr. Swift's No. 126.

THE JAPAN GAZETTE.

YOKOHAMA, 28TH MAY, 1890.

THE IMBRIE AFFAIR.

IT is now about twelve days since the Koto Chiu-gakko students so eminently disgraced themselves, and yet nothing in the shape of punishment has been awarded. The apparent lethargy of the authorities to deal with the matter in the manner suggesting itself to all right-thinking persons, had somewhat prepared us for the conclusion which we are told has been arrived at. Yet we are, nevertheless, surprised to learn that the young miscreants who so vilely maltreated the Rev. Dr. IMBRIE will, in all probability, go unpunished. If this is indeed to be the end, we may ascribe it to the misplaced forgiveness of the victim and the desire of the authorities to avoid putting the finishing touch to a disgrace the school has already earned, and thus conveniently smother the affair. The merciful attitude of the Rev. Dr. IMBRIE ought not to influence them from a course it is their bounden duty to follow, and a course, which, if pursued, will go far to persuade foreigners that there is in Japan a chance of injuries being redressed, some chance of criminal displays towards them being punished. However, we are told they have not thus viewed the subject, preferring rather to take advantage of the generous and forgiving disposition of the assaulted, to perpetrate a gross miscarriage of justice—to allow the young savages who most brutally and murderously attacked an un offending foreigner to go unchastised. If it is true that Dr. IMBRIE has exerted his influence on behalf of the Koto-Chiu-gakko students, we must express our emphatic disapproval of his policy. Primarily the assault of which he was the unhappy victim relates solely to himself; but, in a wider aspect, it bears on foreign residents in this country generally, and if the Rev. Dr. IMBRIE had looked at the affair in this light he might have seen that he had a duty to perform in regard to the community. We are afraid he has failed somewhat herein. The injunction to turn the second cheek to the smiter is, viewed literally, a piece of ridiculous advice, and if at any time it possesses virtue the occasion we are discussing certainly is not one for the exercise of the counsel.

"Apology" has been rightly described as one of the best abused words in the English language. With weakly forgiving and unreasoning individuals it covers almost every imaginable injury. A foreigner is most viciously assaulted in Japan, his cheek is gashed with a knife, and for all this a few words of regret are warped together and offered and accepted, we are informed, as an equivalent for the savagery and grossness we have mentioned. The abuse of the word perhaps reached its climax in the following incident, for which, however, we cannot vouch. In an unsettled Californian district, a man who bore an irreproachable character, was charged with having entered his nearest neighbour's tent and abstracted his "pile" during the night. There was no evidence, but the vigilance committee felt that they must hang some one, so they hanged him; and an hour after, the man who was supposed to have been robbed found his "dust" in another part of the tent, where, when three parts drunk, he had buried it for greater security. The vigilance committee, so the story runs, acted very handsomely in the matter—they apologized to the corpse. This was certainly about all the jurymen could do; but, notwithstanding, the proceeding was incommensurate, and equally out of proportion will be the apology we are informed has been quietly tendered to the Rev. Dr. IMBRIE, if unaccompanied by any other measures.

There are two things foreigners will have to avoid for the future—Imperial processions, and baseball matches played by educated (save the word) Japanese such as the students of the Koto Chiu-gakko, for, if our information is correct, they are not only in danger of violence, but violence which may go unpunished, and that means unchecked. If it be true that the IMBRIE affair is ended without the infliction of chastisement, the authorities are guilty of an exceedingly culpable failure of duty which will not pass unnoted; and if that failure has been aided by merciful, but misplaced, intervention, those who have interceded have also failed in their duty to their fellows, and we do not hesitate to tell them so.

Enclosure No. 8 with Mr. Swift's No. 126.

THE JAPAN GAZETTE.

YOKOHAMA, 29TH MAY, 1890.

UNPUNISHED AND UNCENSURED.

IT appears that we yesterday correctly shadowed the conclusion of the IMBRIE affair. The end is to be as we were informed, and what a pretty finish it is! We now learn from the native press that the authorities of the Koto Chiu-gakko, failing to discover those students who engaged in the brutal attack on the Rev. Dr. IMBRIE, and Dr. IMBRIE not having pressed the matter, the affair has been "peaceably" ended. The base-ball team was called up a few days ago and notified of this fact. As we are about to discuss this disgraceful consummation, it may be well to hark back to the assault itself. Speaking to a representative of the *Japan Gazette*, the Rev. Doctor, after explaining that he had crossed the low hedge surrounding a field wherein the students of the Koto Chiu-gakko and of the Meiji Gakuin were playing base ball, proceeded:—

Then the whole crowd jumped up and ran towards me. It never occurred to me that I was in any way connected with their running and I simply walked on towards the crowd. I had got pretty nearly on a line with the fielders when I met the crowd face to face. Then I saw they were in a rage and very threatening. They came up and surrounded and hemmed me in.

They charged me with having jumped over the fence and I acknowledged I had done so. I was about to explain, but without giving me time to do so one of the students struck me in the face.

With the closed fist?

No, with the open hand. I was so hemmed in that my arms were fast and I could not make the slightest resistance. A fellow in front then seized me by the wrists.

Another young fellow in front then made a kick at me thus (with the knee slighly raised so that the heel and underside of the foot would strike the Reverend gentleman below the stomach in the most dangerous part of the body). Though the crowd was pressing round me I had, very fortunately, just sufficient room to incline my body inward a little so that he did not quite reach me. Almost simultaneously I felt a blow on the left cheek with an exceedingly sharp instrument, and on raising my hand I found that blood was flowing. Then something whizzed by my ear, a stone, I think it was. It was no use trying to parley with the crowd and I could not resist or escape.

We ask, can any foreigner after reading these facts, as mildly narrated by the Rev. Dr. IMBRIE, and recollecting that this is not the first occasion on which the students of the Koto Chiu-gakko have disgraced themselves, refrain from experiencing the most heightened indignation and the heartiest disgust at the farcical finish now reported. Here we have a band of supposedly educated young men who have sought to inflict deadly injuries on an unoffending foreigner (they held him while one sought to plant a kick in the most delicate part of the human frame, and while one stabbed him with a sharp instrument in the face) who "could not resist or escape," the perpetrators must have been recognized by those students of the Meiji Gakuin and of the Koto Chiu-gakko who came up during the proceedings, and yet there has not been the slightest approach to punishment of any kind. We do not hear that they have even been censured. These young savages who, we are told, "are elated over the affair, declaring that they have proved the activity of the *Yamatodamashi*" are to escape the condign chastisement they so richly deserve. *Yamatodamashi*—a term which is supposed to represent everything in the Japanese nature pertaining to chivalry and worthy of emulation—forsooth! The spirit has surely fallen into a sink of dejeneration when it vents itself in most shocking brutality and infinite cowardice; when it is represented in the guise of a crowd of grown-up students holding fast an inoffensive foreigner, and, while he is utterly powerless, stabbing him to the bone and seeking to perpetrate other atrocities. And this is the conception of the *Yamatodamashi* at the close of the 19th century! Verily, Japan is moving on! After this, we should not be surprised to hear the unrevenged murder of the Rev. T. A. LARGE referred to in the same connection.

But as to the escape of the students. We are told that the authorities could not discover the offenders. And we have either to wholly disbelieve this statement, or to accredit the authorities with as large a measure of impotence as we could find in the veriest old woman. Choosing between these two deductions, we adopt the former. Our firm conclusion is that those having jurisdiction did not sincerely seek the detection and subsequent punishment of the villainous offenders who have inflicted a lasting disgrace on the institution to which they are attached. If, in our opinion, the authorities had sought to bring to justice those implicated, they could have succeeded without any supreme effort; for it is to be borne in mind that the assaulters were numerous, that they were confined to a particular institution, and that students of both schools rushed up to the scene during the progress of the attack on the Rev. Dr. IMBRIE. It is as absurd as it is untrue, under these circumstances, to say that detection was impossible. When their own folk are concerned, the Japanese are sufficiently expert, but, somehow, in the case of others they seem to fail most lamentably and most unaccountably. The anti-foreign manifestations of the students in

the Koto Chiu-gakko have awakened, in the minds of many persons in the capital, a suspicion which bears very unenviably on the authorities of the school, and the latter, by their amazing decision in the IMBRIE affair, have done much to feed an assumption which may not be deserved. At the same time, they have also afforded anti-Revisionites another handle to the argument that foreigners under Japanese jurisdiction would lack both battlement against attack and certainty of retaliation. It behoves the American Minister to see that the matter is not settled by the improper truce the authorities of the Koto Chiu-gakko have so conveniently piped.

Enclosure No. 9 with Mr. Swift's No. 126.

THE JAPAN GAZETTE.

YOKOHAMA, 6TH JUNE, 1890.

THE KOTO CHIU-GAKKO AFFAIR.

"NOTHING has happened during my many years' residence in Japan to cool my ardour for the abolition of extra-territoriality to be compared with this utter and unnecessary miscarriage of justice." Thus writes a mission worker to us in reference to the palpable failure of duty on the part of the Principals of the Koto Chiu-gakko. And we venture to think there has been this revulsion of feeling on every hand. Since we last alluded to this subject, several facts have come to our knowledge. After our previous enunciations, it is but proper we should touch on at least one of these. The popular opinion has been, and perhaps still is, that Dr. IMBRIE was, in some way, connected with the lamentable failure of justice which has been so rightly and strongly animadverted upon—the current belief being that he had used his influence to save the young miscreants of the Koto Chiu-gakko from the severe chastisement they richly deserve. But we are told, on authority we are bound to credit, that Dr. IMBRIE did not follow the mistaken policy imputed; that he did not attempt to stay the course of justice in regard to the savages with a *penchant* for baseball and dastardly outrage. His feeling was this: "If we force the case, they will punish the offender, but will complain that they were compelled to do so. They have been pleading for a long time to have the privilege of administering justice to foreigners, &c. Now we will just leave the matter in their hands, and let them show what they would do when entirely unforced." The result is utterly disappointing, not only to Dr. IMBRIE, but to everyone concerned, save the blackguards themselves and the stupid Principals who have connived that the gross misdoings of those they have mistrained should be overlooked. Dr. IMBRIE, in common with almost all missionaries, was, we believe, strongly in favour of a revision of the Treaties and the abolition of extra-territoriality; but this disregard of the simplest dictates of justice in reference to these young savages, is felt to be the worst thing that has happened for a long time to turn the tide of sympathy the other way.

At the outset, we did not hesitate to most emphatically state that the senseless explanation given by the authorities was an apparent and deliberate mis-statement—to use a word much milder than would fit the case. And time has proved us to be in the right. It is now common knowledge that the young men—men did we say? We will withdraw the word that we may not owe a sweeping apology to mankind, and substitute ruffians—who kicked and stabbed are perfectly well-known, so that there was nothing whatever to prevent punishment beyond the desire of the Principals to shield their creditable pupils and save themselves, even if that proceeding tacitly implied that they sanctioned such dastardly behaviour as the students of the Koto Chiu-gakko were guilty of; even if it justified the assumption that there did not exist in the Japanese mind one particle of desire to avenge wrongs heaped upon foreigners, but rather a desire to condone them; even if it went to show, and it points in that direction, that Japanese jurisdiction would be a farce, a mummery, an engine of weakness, of total inoperation or else one of absolute unfairness. The weak incompetents at the head of the Koto Chiu-gakko think nothing of all this. They are not only unfit for their places, but are also highly unpatriotic. Had they been otherwise, they would not have hesitated, by the adoption of silly subterfuges which would have shamed a child, to avenge the outrage perpetrated on the Rev. Dr. IMBRIE, and so performed an act which, if only meeting the case, would have redounded to the credit of Japan. Why the treatment of the affair should have ever been left to these indifferents we cannot conceive. The assault was a criminal one, and ought to have been dealt with by the criminal authorities. It remains now to be seen whether the Department interested will take such action as may tend to remove the discredit created by the supine folly of its officials at the Koto Chiu-gakko, or whether it is content to longer bear a disgrace reflecting not only on itself and the school, but casting also an unfavourable light on Japan generally. The act, however, has been too long deferred to remove the unpleasant suspicion which exists in the mind of each foreigner in this country. And the injury will not rest here. The story of outrage unpunished will go with the mails all over the world. Already it has been greedily seized in China, and Japan may be assured that she has done herself more injury during the last few weeks than was provoked by all the incidents of the last fifteen years. People are not slow to put two and two together, or loth to draw therefrom deductions unfavourable to Japan. And what is the inference conveyed by a contrast of the Nagasaki gambling case and the IMBRIE affair? The offenders in the former were foreigners unable to claim consular jurisdiction, so they were tried by the Japanese, each sent to prison for

two months and individually fined $10. Their offence was keeping a gambling saloon. The offenders in the latter were Japanese, their offence was a thousand times more serious—they stabbed and otherwise brutally ill-treated an inoffensive foreigner—and yet they go unpunished! There can, we say, be but one inference, and it is so apparent as not to need further explanation.

The strangest feature in connection with the Imbrie affair is, we are told, that educated men pooh-pooh the whole matter, or even excuse the young barbarians; and the same men, professors in the University, wonder that such a fuss should have been made about the murder of the Rev. T. A. Large, evidently showing how very indifferently they value human life and view violent attack. Murder and brutality are trivial things in comparison with such serious matters as the trespass of a conventionality or superficial ceremony!

DEPARTMENT OF STATE
JUL 3 1890
RECEIVED.

DIPLOMATIC BUREAU.
JUL 5 1890

No. 127.

Mr Crisler

ASSISTANT SECRETARY.
... by Number and File.
JUL 2 1890

Legation of the United States,
and Tokio, Japan, June 10, 1890.

Mr. Swift.

To the Secretary of State.

Subject:

Japanese contracted laborers in Hawaii.

No. 127.

Legation of the United States.
Tokio, Japan, June 10, 1890.

Hon. James G. Blaine,
Secretary of State,
Washington, D. C.

Sir:

In my No. 32, dated Aug. 16, 1889, I had the honor to call your attention to the emigration of Japanese laborers to the Hawaiian Islands, giving such facts touching the same as had, at that time, come to my knowledge. I was at that time under the erroneous impression that the contract labor emigration then and now going to Hawaii was being carried on between

between private individuals on both sides, but with the consent of the Japanese Government as given by Article V of the treaty between Japan and Hawaii of August 19, 1871, and under governmental supervision. But I have since learned that a new treaty providing for contract labor emigration alone was made between H. I. M. the Emperor of Japan and H. M., the King of Hawaii, on the 6th. of March, 1886. As I do not find any record of its having been reported to the Department of State I have thought that possibly its existence may not have been immediately known to my predecessor, Mr. Hubbard. It has, however, been published

published in the supplimental volume of Treaties between Japan and the other Powers, a copy of which I had the honor to forward you some time ago and which is now at the Department.

By the new treaty the entire matter of the furnishing by Japan of contract labor to work the sugar plantations of Hawaii was taken up by the two governments. The Government of Japan, by the treaty above named, agrees, in substance, to furnish laborers to the number and of the quality required by Hawaii, on 30 days notice, to be given by the agent of the Hawaiian Board of Emigration, to the Kenrei of Kanagawa, acting for Japan.

The

The Hawaiian Government acts through the Hawaiian Board of Immigration, the Government, in turn, becoming responsible to the Japanese Government for the contracts of this Board with the Japanese laborers.

The published treaty does not specify the amount of wages to be paid; but it does say that the contracts shall be for periods not exceeding three years and that they shall be in accordance with a form to be approved by both governments and that the Hawaiian Government shall, during the continuance of the contract, assume all the responsibilities of employer towards the immigrants.

Although

Although the treaty is silent upon the point, it is reasonable to suppose that the immigrants after enlisting for the service may be considered as held to labor for the time and at the place agreed upon and are compelled to perform their contracts specifically.

My attention has been called to the matter by a discussion just now going on in the vernacular newspapers as to certain alleged ill-usage of Japanese laborers in Hawaii. Of the facts of the case I know nothing beyond what appears in the papers, translated clippings of which I inclose for your information.

I have the honor to be,

Sir,

Sir,

I have the honor to be,

Your obedient servant,

John F. Swift

Enclosure. Clipping from Japan Gazette, June 6.

Enclosure with Mr. Swift's No. 127.

"Japan Gazette," June 6.

If we are to place reliance on the statements of four Japanese gentlemen who have written to all the leading Tokyo journals on the subject, many of the Japanese emigrants to the Hawaiian Islands are subjected to treatment requiring immediate investigation by the Government. Messrs. Kuwada Fusakichi, Sanya Torazo, Fukui Takiya and Hiramatsu Fukusaburo, the correspondents alluded to, write to the following effect. About 14,000 Japanese have, up to the present, emigrated to the Islands and the ill-treatment to which they have been subjected can no longer be tolerated in silence. The emigration of Japanese labourers to these Islands is based on the Treaty concluded between the Governments of Japan and Hawaii in 1886, by which it is stipulated: (1) That the Hawaiian Government shall, on behalf of the employer of such immigrants, supply them with food from the time of their arrival in Yokohama for embarkation, convey them by first-class passenger steamer to Hawaii passage free, and shall on their arrival there secure for them employment. (2) The Hawaiian Government shall engage for the advantage of the immigrants, a sufficient number of overseers and interpreters who can speak both Japanese and English; that in all cases of litigation between employers of the immigrants and the immigrants the Government shall grant to the immigrants the services of such interpreters free of charge, that it shall engage a sufficient number of Japanese physicians to attend the immigrants, such physicians to reside in the required localities.

* * *

Such are the regulations, on the face of them fair and even generous. But what (according to the statement of the gentlemen referred to) do we find? (1) That from the wages of each immigrant is deducted the sum of $2.60 per month by the Hawaiian Government till the sum reaches $65. Every immigrant is required on leaving Japan to sign at Yokohama, with the approval of the Kanagawa Kencho, an acknowledgement of having received from the Hawaiian Government the sum of $65, though, in reality, they have not seen the money, and binding themselves to refund the same at the rate of $2.60 per month, dating from the time of their employment. Their wages are exceedingly low compared with those of the Chinese and Portuguese, who receive from $18 to $30 per month, while theirs is only $15 per month from which $2.60 per month is deducted to meet an "advance" which they have never received. As stated above, the Convention between Japan and Hawaii stipulates that the passage to Hawaii shall be free of cost to the immigrant, so that the $65 "advance" cannot be for that, while the expenses of transit from the depot at Honolulu to the place of employment and the journey from their homes here to Yokohama cannot exceed $10. Into whose pocket, then, does the remainder of the $65 go? Is it not contrary to the Convention that such a sum should be collected from them when they have never received it? On actual investigation, it appears that the Hawaii Immigrant Bureau has been collecting from each immigrant, in addition, the sum of 40 cents per month, but the writers of this communication learn from Mr. Onoka, Secretary of the Japanese Legation at Honolulu, that this was discontinued after the arrival of the fourth batch of immigrants. Some are of opinion that the money was collected in order to defray the expense of interpreters, though such a charge was contrary to the provisions of the Convention. It is reported that the Hawaiian Government does not defray the cost of Japanese interpreters and physicians engaged by the Hawaiian Immigrant Bureau, and other expenses incurred by the Bureau. If the Hawaiian Government does not defray such expenses, a levy has to be made on the immigrants by the Bureau, and this probably accounts for the $65 and the 40 cents per month being demanded from them. In that case the Government is imposing on the immigrants the payment of money which should be defrayed by it and in violation of the Treaty. (3) We are also told that prior to the opening of a money order office by the Japanese Consulate, business was managed by the Immigrant Bureau of the Hawaiian Government. Under the old arrangement it used to take money despatched by emigrants twelve months to reach Japan. Certain sums despatched, it is stated, have not yet been received. (4) Then there are also complants of ill-treatment at the depôt at Honolulu. This is a piece of ground 50 *ken* (300 feet) by 20 *ken* (120 feet) enclosed by a fence. Here the immigrants are placed on their arrival, and here they remain a few days awaiting the fixing of a destination. To this enclosure there is only one entrance from the landing pier. In the enclosure is a humble structure divided into several compartments, each of 2 or 3 *tsubo*. At the entrance is placed a European or American watchman who calls out "one," "two," "three" &c. as the immigrants pass in. If any walk slowly they are harshly scolded and driven in just as a herdsman would drive unwilling pigs or sheep. At least 15 or 16 immigrants are crowded in each of the small compartments, the floors of which are uncovered. There are no walls and consequently the immigrants are exposed to the wind and rain. They remain here for five or six days, and during this period the Hawaiians are permitted to crowd round and revile the Japanese. If the latter have any friends or relatives in Honolulu they are not permitted to be visited by them; neither are they allowed to go out, their condition is practically that of prisoners. (5) The houses, at the various plantations, in which the immigrants live were never intended for humanity to dwell in. No. 5 Quarters (Speckles (?) Sugar Refining Company, at Mono (?) Islands is always covered with sand or mud blown by the wind, this also entering into the nose and eyes of the occupants. Then the water is muddy and bad, and we are told that many die before the expiration of their 3 years' term of—service, shall we say?

DEPARTMENT OF STATE
JUL 16 1890
RECEIVED
DIPLOMATIC BUREAU.
JUL 17 1890

No. 128.

Legation of the United States,
Tokio, Japan, June 23, 1890.

Mr. Dwight
To the Secretary of State.

Subject:
Report Concerning Passports
issued for Mr. F. P. Stimpson and Gen. Cyrus Wendell.

No. 125.

Legation of the United States.
Tokio, Japan, June 23, 1890

Hon. James G. Blaine,
Secretary of State,
Washington, D.C.

Sir:

Your letter of instruction No. 75, dated May 9th., 1890, inclosing copies of communications, one from Wm. J. R. Stuyvesant and the other from Mr. Ten Eyck Wendell, both gentlemen of New York City, complaining to the Department of State of their having been put to certain inconvenience, while traveling in Japan, through the fault of this Legation in not obtaining with sufficient

sufficient security, traveling pass-
ports for them, and requesting me
to report upon the case, was
received by the last mail, and I
now have the honor to comply
therewith.

Mr. Steigerwalt complains that
on the 31st of March last he tel-
egraphed to this Legation from
Nagasaki to have passports for
travel overland forwarded to him
at Yoko, in case of the United States
Consul. That, had the matter been
properly attended to at the Legation,
the passports would have met him
on his arrival at Yoko, on the 2nd
of April. That they were not there
on his arrival, and that in con-
sequence he was compelled to

wait

wait at Kyoto. He declares that he is not the first to be annoyed in that way, but that the delays and annoyances caused to American travelers by the inattention of our representative (meaning myself) "is scandalous". That the annoyance at being detained hardly equalled his sense of humiliation growing out of the circumstance that certain English traveling companions of his (names not furnished) obtained their passports "with little delay." On this latter point he is distinct and emphatic. He then enquires of the Department of State, why it is that "English do business with this Power (Japan) in half the time it takes Americans to do the same

same

same thing? And finally he intimates that it will be agreeable to have the solution of this interesting diplomatic puzzle forwarded to him at the "Union Club" New York City.

His traveling companion, Mr. Geo Eyre Wendell, of 15 Broad St. (same city), bases his complaint upon substantially the same statement of facts. He also states that he telegraphed from Nagasaki, March 31st., to this Legation to have passports meet him at Kobe. That they had not arrived on the 3rd of April. That he was put to the trouble and expense of getting a local passport to Kyoto. That the passport from Tokio did not get along till the 6th., having been forwarded

forwarded after him by the Consul. That the passports, when they arrived, were found to be post-marked "Tokio, April 5th". He then assumes that you must be aware of the fact that travelling passports in Japan "are granted at once on presentation of "the application by the U. S. Minister." That Englishmen (again no names given) who arrived at Kobe the same day with him and who had telegraphed for them to their Legation the same day he did, found, on their arrival at Kobe, their passports waiting for them. Mr. Mendell does not mention his humiliation, but only expresses his surprise at the neglect of duty on the part of the U. S. Minister, not apparently because

under

under ordinary circumstances he would have expected anything better from a United States Minister, but, as he laconically puts it, "in view "of all the promises of the last cam- "paign." In conclusion, he places his complaint upon the very un- selfish and public spirited ground of a desire to save future visitors to Japan from annoyances such as have been imposed upon him.

The letters forwarded to you - respectively by the two gentlemen above named, express but little, if any more strongly the sense of exasperation that no doubt has been felt at one time or another by hundreds, perhaps thousands, of tourists of various nationalities since Japan opened

beyond treaty limits, has been thrown open to restricted travel by trips made under special passports granted for purposes of "health" and "scientific research" only. The sense of vexation and the sore mental distress of the tourist held in quasi imprisonment, as were Messrs Stuyvesant and Rendell, while awaiting the plug-jah and perfunctory movements of some one or other, of the official class, they can not know exactly who or where, to perform a function that in itself, in their opinion, seems utterly useless for any possible good, may well be sufficient to drive the best tempered man in the world, to a state of furious rancor approaching insanity and to make him say

the

the most disagreeable things he can think of, and even to write them down on paper, about anybody, usually the first person to come to his mind, and I am quite willing to take my share of it. Indeed, it is not impossible that that, at least in part, is what I am out here for.

Most tourists who get caught in like predicament, as a rule, tide over the passing wave of exasperation by such general and sweeping denunciations, objurgations and more or less delicate or rough cursing and swearing, depending upon the age, sex and disposition of the sufferer, and levelled in all possible directions, and against anybody and everybody, who by any conceivable

circumstances

circumstances, can have been responsible for the annoyance; sufficient in quantity to afford present relief to the outraged feelings; but all addressed to the open air, by word of mouth; and these they usually stop. Most of them, I am glad to be able to say, however angry they may be, are sufficiently just to refrain from making their grievances the basis of a formal charge, against any particular individual, until they have obtained some sort of proof that that individual has been at fault.

I am sorry that Messrs. Thompson and Wendell, who I understand to be gentlemen who would not intentionally do an injustice even to an American official abroad, instead

of

of sitting down in their rooms at the Hotel to write abusive letters to the Department of State about their United States Minister, did not employ their time in driving around the delightful city of Kyoto, inquiring its natural beauties, and studying the manners of its charming and graceful inhabitants. Had they pursued this course & felt confident that on further inquiry as to the real condition of things, they would never have written the Treaty, had tampered, and in many material particulars, inexact communications, copies of which are now before me.

I trust I may be pardoned in writing with some feeling upon a subject that has been of more or

less

less annoyance to the United States officials in this part of the world.

There seems to be a limited number of our fellow countrymen who may be classified as of the Cunard steamer cabin - boarder type, who spend too much of their time abroad or at sea to renew much of their own country. Examples of which class, in occasional instances expand into all-around "globe trotters." From this class, United States diplomatic and consular officers have come to expect very little except unfriendly criticism and general disparagement. This kind of Americans appear to think that all the gentlemen in the world, who do not come from England, come from New York City. That in New York City they mostly belong

belong to the Union Club, and even
there are not numerous enough to
entirely fill up its membership.
They are constantly heard apologizing
for, and explaining to foreigners,
especially to English, an assumed
inferiority in the representatives of
their country as compared with the
representatives of other countries,
especially England,
which inferiority, as a rule, had
not been before discovered by the
listener, and which in very many
instances exists only in the imagina-
tion of the American apologist. I
will not venture to classify Messrs.
Sturgeant and Wendell as of this
type. On the contrary I have been
assured by those who know them
personally that they are gentlemen
who

who would be a credit to any country. But their seeming eagerness to attribute, almost without a a shadow of evidence, official misconduct to the representative of their own country, coupled with a fine readiness to take for granted superior efficiency in the British Minister, so strongly resembles the conduct of the class to which I refer, as to bring the subject forcibly to my mind. In addition to this, I have good reason to believe that both the gentlemen, after visiting their various bad-tempered communications to this Legation and to the Department of State, and before leaving Japan, found out the true state of facts and the difficulties

difficulties attending the obtaining and forwarding of traveling passports and became aware of the injustice of what they had said and done; and I regret to say, that up to this time they have failed to make that apology and retraction which gentlemen, such as they are said to be, usually do under such circumstances.

After making a thorough inquiry into the matter I have the honor to report that what in fact did occur was substantially as follows. On the 31st of March, precisely as the gentlemen charge in their complaint, they telegraphed from Nagasaki through Consul Birch to this Legation, asking that passports

be

be obtained and sent to them in case of the Canal at Kobe. A copy of the telegram is herewith enclosed. I was absent from Tokio at the time, having gone to Nagasaki to witness the Spring Manoeuvres of H. I. M's Army and Navy. I left Kobe on the 30th., as you will observe by reference to my Dispatch No. 111, in which I gave an account of that visit. I am confident, however, that my absence in no respect rendered the passport service of the Legation any less efficient. The telegram left Nagasaki at 10 A.M. on the 31st. March, and was received four hours later by Secretary Dun and Mr. Whitney, Legation Interpreter, who has the

charge

charge of the matter of passports in his hands. If being found to be in due form, they at once made application at the Foreign Office for the passports as demanded. Our records, transcripts of which are enclosed, show that the Foreign Office acted with the greatest promptness and issued the documents the following day, April 1st. Our Legation was still at Tsuruga, three miles off, and the messenger having to make haste and forth, they did not reach the Legation till late. After the same day, April 1st, the necessary letter and directions to guide the travelers in their conduct were prepared, and with the passports enclosed in properly directed envelopes, the postage prepaid, and they were sent to the

post-office

post office and mailed. The passports ought to have left Tokio by the 6:10 A. M. train of the 2nd. and been delivered to the Consul at Kobe on the 3rd. before noon. Consul Smithers reports (letter enclosed) that they did not reach his hands till the 6th. I have no means of accounting for this delay except to say that it lies between the Consulate at Kobe and the post office. ~~In the~~ letter addressed to you from Kyoto by Mr. Wendell, dated the 7th., the Department of State is informed that the passports, when they reached there, on the 6th. bore the postmark at Tokio of the 5th. This was simply a physical impossibility, as both Mr. Steyrmark and Mr. Wendell must

have

have long since learned either by experience or enquiry. When Mr. Steigerwald wrote me a similar statement about the postmarks, I caused Dr. Whitney to write, asking that the envelope be sent to this Legation in order that I might investigate the cause of delay, (copy enclosed) but that gentleman took no notice of the enquiry, perhaps because he had already transferred his complaint to the Department of State. Inasmuch as the postmarks must have been in Japanese characters, which I hardly think the gentleman reads, I assume that he was misled by his interpreter.

A letter postmarked Tokio, March 5th, having been mailed from the Legation on that day could not go to Kobe, be delivered to the Consul and remailed

for

by time to Kyoto, so as to reach that place at any time in the 6th. This, I submit, disposes of the charge against the Legation generally as to this particular case and shows that instead of being negligent or inattentive the Secretaries, in my absence, were more than usually prompt and successful in getting passports for the complaining gentlemen, and in doing all that lay in their power to send them to their destination. As to the disparaging contrast they make between me and my colleague of the British Legation; as to my own "proverbial inattention"; as well as to the supposed "promises made in the last campaign", there is very little further explanation I can give. That Messrs. Stuyvesant

and

and Wendell were "not the first to have been arranged" by delayed passports, I am only too well aware. I regret that the contrary is not the fact. That my inattention to duty and the consequent delays and loss of time, is provincial, though my attention had not been called to the circumstance before, does not seem to me by any means sufficiently improbable to justify me in disputing the gentleman's veracity in making the statement. I can only say that if it be true as he states I do not see how I am to overcome it. For both I and the Secretaries of Legation have done our best to obtain passports for our fellow citizens as speedily as possible and can

can do no better in the future.

As to the statement of the gentlemen to the effect that certain "English traveling companions" of theirs had, under identical circumstances as to time and place — telegraphed from Nagasaki to the British Minister at Tokio for — passports and had found them — waiting at Kobe, on their arrival there, I have the honor to report that I strongly suspect that there has been a mistake of fact in that point. I am very confident that no Englishmen traveling with — Messrs. Stuyvesant and Wendell — found passports awaiting them at Kobe at the time or under the circumstances they claim. In proof of

Of this I offer the letter (copy enclosed) from the British Minister to myself and the statement of the British Consul at Kabe made to U.S. Consul Smithers. I do not wish to be understood as questioning the good faith of Messrs. Sturgeon and Wendell in making the statement. It seems to me far more likely that they have been imposed upon. I have thought it possible that the following theory may explain the singular error. It is well known that here in the East the peculiar and anomalous, if not abnormal admiration of everything English which has so long been observed in a certain class of Americans is sometimes taken advantage

advantage of, and utilized by unscrupulous individuals of outside nationalities, who deliberately palm themselves off upon our susceptible and too confiding fellow countrymen, as genuine and simon-pure subjects of Her Britannic Majesty and thus, under false pretenses, become the recipients of a deferential and obsequious homage, to which they are but little better entitled than an ordinary, everyday citizen of the Republic. This grateful and pleasing tribute to imagined superiority possessing, doubtless, for the time being, all the charms of the "true business", must, when the discovery of the cheat is finally made, leave in the memory of

our

our deluded countrymen a disagreeable after-flavour. In short, may it not be possible that the gentlemen have been enjoying the patronage and savoring in the smiles of a "bogus" Englishman!

—; He might have been a Russian,

" A French or Turk or Prussian,

"Or, perhaps, I-tal-li-an."

I only suggest this solution as being more probable than that the gentleman would misstate a fact for the purpose of adding to the embarrassment of an H. B. Official against whom they had a grievance.

As you will observe by the enclosures, on the 11th instant I addressed a note to Mr. Fraser, H.B. Mis. Minister (copy enclosed) inquiring

5/

enquiring what passports if any were sent to British subjects at Kobe at the time referred to in the letter of Mrs. Stuyvesant and Wendell. The answer of the British Minister, of date the 12th instant (copy inclosed) I think shows, by fair inference that I am correct in my conclusion that the pretended English companions were not genuine Englishmen at all, and may have been base impostors practicing upon the credulity of our countrymen and appropriating to themselves honors intended for their betters. At the same time I addressed a similar inquiry to Mr. Smithers, U. S. Consul at Kobe (copy inclosed). From his answer, which bears date

the

the 16th instant (copy enclosed), you will observe that he enquired of the British Consul at Kobe, and was assured by him, that no such passports were received or delivered. At the same time the British Consul informed his American colleague of a fact, which is well known by all of us to be true, that British subjects in Japan often assist that Americans get their passports more readily than Englishmen do. As to that, I know nothing. I only know that we do the best we can for our citizens and have no doubt the British Legation does the same for theirs.

With respect to the passport service at the British Legation it is proper to say that either British subjects

subjects must be less exacting than American citizens, or, that the British Minister at Paris is more independent of pressure from English tourists, than I am able to be from Americans of the same class. No direct application for a passport is received from a British subject at their Legation. All must come through the Consulates. I also find the British Legation resolutely declines to correspond in the subject of passports with any applicant, but compels all to address inquiries to the Consuls. The letters and telegrams sent to me by Mr. Stuyvesant, bad-tempered almost to the point of offensiveness as they were, if directed by a British subject to the British Minister would

would neither have been answered nor noticed. My British colleague assured me in a conversation on this very subject of the Stangerwent-Wendell affair, that he invariably declines to correspond about passports. That he would regard it as undignified and out of keeping with his official character to do so. "We take care," he said, "that "the service is made as efficient as "we can make it, and that British "subjects get as nearly as possibly "all they are entitled to; but I "decline to be drawn into a corres-"pondence with anybody about "passports." For my part, I do all I possibly can to get passports and every other reasonable thing asked

asked for by my countrymen, and am careful to answer all civilly written letters, on that and every other subject, and shall continue to do so. But I do strongly suspect that if Messrs. Stuyvesant and Wendell were made aware of the rule prevailing at H.B.M's Legation in view of their evident high opinion of the correctness of procedure likely to prevail there, they would incline to animadvert upon my want of dignity and consequent unfitness for the place I hold. The injustice perhaps unintentionally imposed by Messrs. Stuyvesant and Wendell upon the members and attaches of this Legation, including myself, is by no means as unusual as it ought to be. There is good reason

reason to believe that American representatives abroad, more particularly in the Consular service, are persistently treated with unfairness, misrepresented and belittled by their own countrymen of the class to which I refer. Of Ministers, for obvious reasons, I will say nothing; but with a very good opportunity extending over the last twenty-five years, of comparing American consuls in all parts of the world with the same officials in the service of other powers, I have no hesitation in pronouncing our consuls to be generally a very superior body of men and to the best of my belief they are so recognized in the communities where they have been placed. This is particularly true as to those here in the East, for many

every post in this part of the world and elsewhere, & have no doubt, as well, the American consul is, with rare exceptions, a prominent figure, looked up to and respected and generally wields an influence personal to himself and due to his individual worth and character over and beyond that given to him by the country he represents. And admitting, as I am quick to do, and in good faith, the evils of the so-called "spoils system" which, considered as to its effect on our country at home and its institutions is so obviously and distinctly bad, I have not found that it gives to us a body of consular officials in any respect inferior to those with whom they are brought

brought in contact. And I must say that the disparagment, so often indulged in by Americans, of this class of officials, is generally as unjust as it is unpatriotic.

That Messrs. Thurgeant and Randell should smart under the annoyance to which they were subjected at Kyoto, seems to me but natural and I find no fault with it. But when I remember that, besides this Legation there was a number of other agencies in the transaction, all equally liable to be at fault; that there was the Japanese Foreign Office with its strict construction of regulations intended not to encourage but to restrict travel; that there was the Police office with its hosts of clerks,

Officers

carriers and porters with their infinite possibilities of mistake, accident and misfeasance, with risks of translations of addresses from the English letter to the Chinese character and back again, to say nothing of the telegraph with all of this and more in the way of chance and accident, I confess that I have a feeling of resentment when I find that a fellow countryman in whose behalf we have been doing our very best has selected us out at random from the myriad of possible delinquents without proof, investigation or enquiry, as the subject of final condemnation.

I sincerely hope that my "provincial" reputation for inattention to

to duty has been exaggerated by Mr. Stuyvesant; but if it is as he puts it, I cannot believe it rests on any delinquency greater than I have been guilty of in the present case, the facts of which I have the honor to submit for your judgment.

I have the honor to be,
Sir,
Your obedient servant,
John F. Tufft

3 5.

Post Scriptal:

Since closing the foregoing the Imperial Foreign Office have kindly permitted me to forward to you the original passport, No. 3618, issued on the 18th. of April to Mr. Isa Cyrus Wendell, which is enclosed. That issued to Mr. Stanyarne could not be found, though search was made for it. That Messrs Stanyarne and Wendell, on receiving their passports must have become aware that the letters written by them from Kyoto to the Department of State had made serious charges against this Legation, the enclosed original document fully proves. It will also be seen that had

they

they forwarded the envelope, showing the postmarked Tokio postmark, we could almost certainly have ascertained who it was that caused the detention at Kyoto.

On being reminded by the Department of State, as I trust will be done, of the foregoing and the other facts of the case, I have no doubt that Messrs. Sturgeon and Wendell will at once do themselves and this Legation the justice of forwarding an apology.

John F. Swift

Enclosures:

1. Telegram Mr. Peach to Mr. Swift, 31, 3, 15.
2. Transcript of Legation Records in re, etc.
3. Mr. Sturgeon to Mr. Swift, April 7th.
4. Mr. Whitney to Mr. Sturgeon, April 9th.
5. Mr. Swift to Mr. Frost, June 11th.
6. Mr. Frost to Mr. Swift, June 12th.
7. Mr. Swift to Mr. Smithers, June 15th.
8. Mr. Smithers to Mr. Swift, June 16th.
9. Original passport for Mr. Tin Eyre Rendell, with Translation. (W.D. & Mr. For-

(eign Office request that the original

(be returned to this Legation.)

Enclosure "1" with Mr. Swift's No. 128.

Copy of telegram

24 words No 361 Tokio 31. 3

Given in at Nagasaki Date 31. 3. 18 - 10 H. A.M.

American Minister

Tokio

Send care Consul Kobe passports John Stuyvesant wife and Van Eyck Wendell Americans Kobe to Tokio overland one months, health.

Birch

Passport Application No. 3617-8
U.S. LEGATION JAPAN.
REC'D. Mch. 31st 1890

No.	Date.		NAME.	Residence.	Time.	Object.	Passports returned nos.	When and where sent.	
3617	March	31st	John Stuyvesant Wendell	Kobe	1 Mo.	Health		April 1st	U.S. Consul. Kobe
3618	"	"	Jen Eyck Wendell	"	"	"		"	"
copy									
3671	April	16	John R. Stuyvesant Wendell	Yokohama	1 mo	Semble & observation		April 16	del. at U.S.
3672	"	"	L. E. Wendell	"	"	"		" "	Legation

PLACES TO BE VISITED.

Tokyō overland

Tokyo overland.

107- Nikko & return

107- Nikko "

Copy of Messengers Receipt-Book

No. 3617

March	31	Foreign Office	No. 3613-16	Received Stamp
			No. 3617-18	Received Stamp

Foreign Office

Tokyo, March 31st 1890.

TO

His Excellency

Viscount Siuzo Aoki,

His Imperial Japanese Majesty's Minister for Foreign Affairs.

Viscount:

I have the honor to request Your Excellency to furnish me with ~~a~~ Passports for the citizens of the United States named below.

I have the honor to be,

Your obedient Servant,

(sgd) Edwin Dun
Secretary of Legation
for the United States Minister

Names John Stuyvesant and wife
TenEyck Wendell

Residence Kōbe

Places to be visited Kōbe to Tōkyō overland.

For what object Health Time required One month.

Passports returned, No.

No. 3617

United States Legation,

Tokyo, April 1st 1890.

Mr. John Stuyvesant

Kōbe

Sir:

Enclosed please find the passport for which you applied.

You are expected to observe in every particular the regulations prescribed by the Japanese Government, a translation of which is enclosed, for the guidance of foreigners to whom passports are issued.

Your attention is especially called to Regulation IV, in relation to the return of passports through this Legation.

I am, Sir,

Your obedient Servant,

John F. Swift,

U. S. Minister.

The enclosed passport permits the person named therein to visit the following places: Tokyō overland

Object Health. Date of expiration May 1st 1890.

No. 3618

United States Legation,

Tokyo, April 1st 1890.

Jens Eyck Mendell

Kobe

Sir:

Enclosed please find the passport for which you applied.

You are expected to observe in every particular the regulations prescribed by the Japanese Government, a translation of which is enclosed, for the guidance of foreigners to whom passports are issued.

Your attention is especially called to Regulation IV, in relation to the return of passports through this Legation.

I am, Sir,

Your obedient Servant,

John F. Swift,

U. S. Minister.

The enclosed passport permits the person named therein to visit the following places: Tokyō overland.

Object Health Date of expiration May 1st 1890.

Legation of the United States of America,
Tôkyô, Japan, July 1st, 1889.

NOTICE TO AMERICAN CITIZENS IN JAPAN.

Having been informed by the Japanese Government that a literal and strict compliance with the terms and conditions specified in traveling passports, will hereafter in all cases, be exacted, American citizens are therefore cautioned not to pass beyond the Treaty limits without having in their possession proper passports to be shown to the local Japanese officers when ever demanded, not to visit any place not authorized by the passport, nor to remain beyond the Treaty limits after the expiration of the said passport. Failure to comply with the foregoing renders the offender liable to arrest by the local Japanese officers.

Applications for passports to travel in the interior of Japan from citizens of the United States resident within the open ports and consular districts of Yokohama (Kanagawa), Kôbe (Ōsaka and Hyôgo), and Nagasaki, or from citizens of the United States arriving at these ports from other points in Japan, or from abroad, must in future be made through the United States Consuls at these ports.

Applications, however, from United States citizens resident at Tôkyô or at places in Japan other than the above named ports and consular districts, may, as heretofore, be made direct to the United States Minister.

To avoid delay in obtaining passports, the following directions should be borne in mind:—

The name and residence of the applicant, the address to which the passport should be sent when obtained, the names of the provinces and principal towns to be visited in the order of the route taken, the object ("health" or "scientific observation"), and the period (not exceeding 6 months) for which the passport is desired, should be plainly stated. A new passport cannot be granted to any person when one unexpired is still outstanding.

Applications from Yokohama and Tôkyô should be made five days in advance of the proposed use of the passport, and from other points, a proportionately longer time.

American citizens in the employ of the Japanese Government or of any of its subjects, will find it convenient to obtain passports from the local authorities through their employers, as, in such cases, applications when made through the Legation for periods of more than two weeks, except during the summer holidays, are required to go through certain formalities which necessarily cause delay.

All applications for passports made directly to the United States Legation, should be addressed "To the United States Minister, Tôkyô," the words "Application for Passport" should be written on the cover, and six *sen* in stamps enclosed for return postage.

Attention is especially called to Articles 4, 7, 8, & 10 of the regulations, herewith, under which traveling passports are issued, and which American citizens are required to observe in every particular, bearing in mind that the granting of these passports by the Japanese Government, is an act of comity and not a right secured by treaty.

JOHN F. SWIFT,
Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

Regulations to be borne in mind by Foreigners traveling beyond Treaty Limits.

I.—Foreigners traveling in the interior must obey all the local laws.

II.—They must set out within thirty days from the date of their passports.

III.—Those foreigners who, on account of some difficulty encountered on the way, cannot return within the time fixed in their passports, shall, in due time, make known the cause of their detention through their respective Ministers to the Foreign Office.

IV.—Passports must be sent back within five days after the return of the holders. Those foreigners who set out from, and return to, such distant places as Nagasaki or Hakodate, must forward their passports to the Foreign Office through their respective Ministers within thirty days.

V.—At hotels where they seek lodging, travelers shall show their passports to the hotel-keepers. Passports must also be shown by the way when requested for examination by the police, the Kuchô, or the Kochô (heads of wards or districts). Foreigners who on any account whatever refuse to show their passports shall be liable to arrest.

VI.—Passports are not transferable.

VII.—Foreigners who receive passports to travel in the interior are not allowed to buy from, sell to, exchange, or make contracts with Japanese in any province.

VIII.—Foreigners who travel on passports are not allowed to permanently rent or dwell in houses of the Japanese in the interior.

IX.—Even those foreigners who have licenses to hunt, are not allowed to shoot or hunt when they go beyond treaty limits.

X.—Foreigners who on account of anything encountered in the journey, return after having gone half-way and then wish to travel to the places left unvisited, shall return their passports, and obtain permission anew, even to visit places included in the passports first procured by them.

XI.—Foreigners who violate any article written in their passports, or in these regulations, shall for every offence be complained of by the Foreign Office to Ministers of their respective countries.

Re

Passport Application No. 2617
U.S. LEGATION JAPAN.
REC'D. Apl 8d 1890

Enclosure No: With Mr. Swift No.

Copy.

Mr. Stuyvesant to Mr. Swift

Kioto, Japan

April 5th 1890

To the United States Minister

Tokio Japan.

Dear Sir

Mr. Leo Eyck Wendell, my wife and myself are desirous of seeing the castle at Nagoya on April 9th. We are informed special permission must be obtained by you for us. Will you kindly obtain such permits as are necessary and mail the same to me at Nagoya so as to reach there by April 9th.

I name the 9th, but we may be detained here waiting for our passports which to date have not arrived although our consul at Nagasaki on March 31st telegraphed you for them to be sent to Kobe, and orders for forwarding same here are with the Consul at Kobe. Why English friends travelling

with us should telegraph from same point - or same day and find their passports at Kobe on April 2nd and we should have to wait no one knows how long is more than we can understand

It is annoying to say the least.

very truly yours

(sgd) Jno R. Stuyvesant

Re

Passport Application No. 3617-8
U.S. LEGATION JAPAN.
REC'D. April 7th 1890 W.H.W.

Copy

Telegram Mr. Stuyvesant to Mr. Swift.

Words 18/19 Status: Token Date 6.4.18-

No 15.

Consul at Kioto Date 6 April 18- 9H.35m a.m.

United States Minister Tokio

Time limited delayed forwant of passports telegraphed for from Nagasaki

(Sgd) John R. Stuyvesant

This passport was sent with No 3618 to c/o U.S. Consul Kobe April 7th

(Sgd) W. H. Whitney

Forwarded

Message Form

IMPERIAL GOVERNMENT TELEGRAPHS.

(International Telegram.)

Class Cable / No.	No. of words	Sent. Time / Station to / Clerk	Remarks	Charges / Total $

Office of Origin Tokyo Date April 6th 1895 H M M

ADDRESS

Stuyvesant Kyoto

Passport sent Consulate Kobe first

6/35 U.S. Legation.

Signature of Sender.

NOTE—If the name of the sender or senders of the Telegram is to be transmitted to the address it should be written as the last word of the message. The signature of sender is not transmitted but is required to certify the genuineness of the Telegram.

Passport Application No.
U.S. LEGATION JAPAN.
REC'D. Apl 14th 1890

Copy.

Mr. Stuyvesant to Mr. Swift-

Yokohama

April 12th 1890.

To the United States Minister

Dr. Sir:

I enclose you the passports of Mr. Wendell myself and wife, be kind enough to send me here athens which will allow us to go to Nikko

very truly Yrs

(Sgd) Jno R. Stuyvesant

C/o Grand Hotel.

Copy

Mr. Whitney to Mr. Stuyvesant

Re. 3617-18.

United States Legation,
Tokio April 14th 1890.

Mr. J. R. Stuyvesant
Grand Hotel
Yokohama.

Dear Sir:

I am directed to inform you in reply to your application to the United States Minister for a passport-to visit Nikko for yourself and Mr. Wendell, that it will be necessary to state the period and object of your visit and to send the application through the Consulate General at Yokohama in accordance with the requirements of the printed regulations a copy of which is herewith enclosed for your information

Respectfully yours
W. H. Whitney
Interpreter, in charge of passports

P.S. I have no doubt but that the Consul General would telegraph a request from you apply to him to do so and forgo the telegraphic charges.

over

On the 16th Mr. Stuyvesant and Mr. Wendell presented in person applications Nos. 3670-2 from the Consul-General for passports to Nikko and return which were delivered to them on the same day. No mention was made by Mr. Stuyvesant of the alleged delay in the receipt of the previous passports.

W. H. Whitney (June 10th 1890)

Enclosure #3 with Mr. Dwight's No. 126.

Passport Application No. 3417-8.
U.S. LEGATION JAPAN.
REC'D. 1890

Copy

Mr. Stuyvesant to Mr. Swift

Kioto April 7th 1890.

Hon. Jno. F. Swift

Dear Sir:

The passports I telegraphed for yesterday, Mr. Wendell and mine came this a.m., postmarked shews they left Tokio April 5th it requiring therefore from March 31st to April 5th to get them out.

As these passports do not include Nikko, I have to trouble you to procure others for us for Nikko, wishing to leave Yokohama for Nikko one week from today I write to ask that the passports be obtained for us so that we can have them on Friday or Saturday of this week.

Mr. Ten Eyck Wendell

and myself and wife.

Very truly Yr

(Sgd) Jas R. Stuyvesant.

Enclosure 4 with Mr. Dwight's No. 128.

Copy.

Mr. Whitney to Mr. Stuyvesant

(a copy sent % Grand Hotel Yokohama)

3617 18/4

United States Legation

Tokio, April 9th 1890.

Mr J. R. Stuyvesant,

Kioto,

Dear Sir:

I am directed by the United States minister to state to you in reply to your letters dated Kioto April 5th and 7th, that according to the records of this office the passports in question were posted in Tokio on April 1st. If, however, you will forward here the envelope in which the passports were sent to the Kobe Consulate enquiry will be made into the matter. As the regulations of the Japanese Government preclude the issue of a new passport when an old one is still outstanding, it will be necessary for you to return the one you now hold before a new one can be obtained

Respectfully yours.

W. H. Whitney

Interpreter.

Enclosure #5 with Mr. Swift's No. 128.

(Copy)

Legation of the United States,

Tokio, June 11, 1890.

My dear Colleague,

I wish to ask that you will kindly furnish me with certain information from the Records of your Legation which will assist me in an investigation I am about to make, under the following circumstances: At the end of March last, two American gentlemen, Mr. Stuyvesant and Mr. Wendell, of New York, traveling eastwardly around the world, arrived at Nagasaki. On the 31st of March they telegraphed from that place to this Legation, requesting that traveling passports be procured for them and sent to the United States Consulate at Kobe to be ready for them on their arrival from Nagasaki. There were some English gentlemen traveling with them whose names, however, have not been furnished me. These English gentlemen telegraphed to your Legation at the same time, making a similar request, namely, that passports be obtained for them and sent to H. B. M's Consulate, Kobe, to be kept till called for. The whole party arrived at Kobe together on the 2nd of April The passports for the Englisg gentlemen had already arrived at the British Consulate. The passports for the Americans had not yet reached the United States Consulate. The American gentlemen at once wrote to the Department of State complaining of their detention and charging this Legation with negligence, and I have been requested to look into the matter.

Our Records show that the telegram from Nagasaki was received

the

the day it was sent, namely, March 31; that the passports were obtained the same day and mailed at Tokio to the United States Consul, Kobe, the next day, April 1st. The passports overtook the American gentlemen at Kyoto on the 6th of April.

As I said before, the English gentlemen who were traveling with the Americans and who had telegraphed simultaneously with them from Nagasaki, March 31st, had found theirs at the British Consulate at Kobe when the party arrived at that place on the 2nd of April.

I have reason to believe that the delay will be found to be due to some fault or mistake, either with the Post Office or with the United States Consulate at Kobe. But the enquiry will be materially assisted if I can know the exact history of the telegram from Nagasaki to you, of the 31st of March, and the mailing of the passports to the English gentlemen. I repeat that the Americans did not communicate the names of their English traveling companions to the Department of State.

If it is not asking too much, will you kindly inform me of the time of the reception by you of any telegraphic request from Nagasaki and dated the 31st of March, for passports to be sent to Her Britannic Majesty's Consul at Kobe, what time the passports were obtained, when mailed for Kobe and also, if you have any knowledge of the fact, when they were delivered at Kobe.

Should you require any similar service from me I shall be most happy to do anything in my power at any time.

I avail myself of this opportunity to renew to you, my dear

Colleague

colleague, the assurances of my highest consideration.

JOHN F. SWIFT.

His Excellency,

Mr. Hugh Fraser,

H. B. M's E. E. & M. P. to Japan.

Enclosure #6 with Mr. Swift's No. 128.

(Copy)

Tokio,

June 12, 1890.

My dear Colleague,

I have looked into the records of passports issued and applications for passports received at the date mentioned in your letter to me; but although a careful account has been kept of the papers issued, that has not been done to the same extent in regard to applications.

I think I can safely state, however, for your satisfaction, upon the testimony of those whose business it is to receive applications addressed to this Legation on the subject and to procure and issue passports in consequence, that it would be materially impossible in any ordinary circumstances for a telegraphic application, received from Nagasaki on the 31st of March, for a passport to be sent to Kobe, to be complied with in the manner described in your letter to me of yesterday, by the 2nd of April.

Kobe is seventeen hours or more distant from Tokio by the speediest means of communication and the process of procuring passports is not usually so expeditious. If such a thing happened, which I doubt, it can only have been by some accident that can hardly be expected to recur, or be fairly cited as a rule.

I avail myself of this opportunity to renew to you, my dear Colleague, the assurances of my highest consideration.

(Signed) HUGH FRASER.

His Excellency, The Honble. J. F. Swift,
E. E. and M. P. of the United States, etc., etc., etc.

Enclosure # 7 with Mr. Swift's No. 128.

(Copy)

No. 63. Legation of the United States,

Tokio, June 11, 1890.

E. J. Smithers Esq.,

United States Consul, Kobe.

Sir:

On the 31st of March last J. R. Stuyvesant and wife and Ten Eyck Wendell, the former of Union Club and the latter of Broad Street, New York, telegraphed from Nagasaki through Consul Birch, to this Legation, requesting that traveling passports be obtained for them and sent to the U. S. Consul at Kobe, to be kept for them till their arrival at that place. The telegrams were received here on the same day, March 31st, The passports as required were regularly obtained and mailed at Tokio on the following day, April 1st, to your Consulate at Kobe for said persons. In a letter to this Legation dated April 5th, Mr. Stuyvesant states that he and the party above described are then stopping at Kyoto and waiting for their passports aned that he has left instructions with the Consul at Kobe to have them forwarded to him at that place. In the same letter he expressed disappointment at their non arrival. On the 7th of April Mr. Stuyvesant again wrote to this Legation complaining that the passports for the party had not reached Kyoto till that morning, when they had arrived by the mail and that the post-mark on them showed that they had left Tokio April 5th, requiring, as Mr. Stuyvesant puts it in his letter of complaint, from March 31st to April 5th to get them out, implying that it had taken all of that time to obtain them from the Foreign Office and mail them at Tokio; that they had left Tokio on the 5th, had been

delivered

delivered at the Consulate, been remailed and had reached Mr. Stuyvesant and his party at Kyoto on the morning of the 7th. In a letter to the State Department written from Kyoto, both Mr. Stuyvesant and Mr. Wendell state in substance that this kind of ~~del~~ delay in procuring and delivering traveling passports in Japan, owing to the inefficiency of the service, is a matter of frequent, ordinary and well known occurence, notwithstanding the promises of reform made by the Republican party in the last campaign. They also state that certain English traveling companions of theirs who telegraphed from Nagasaki at the same time they did had no trouble in getting their passports in the time named, having found the passports ready and waiting for them at H. B. M's. Consulate on their arrival at Kobe from Nagasaki. From this it is inferred that their English traveling companions telegraphed for their passports on the 31st and found them ready at the British Consulate on the 2nd of April. As I am investigating the affair under instructions from the Department of State I have to require that you will furnish me with such information as you passess, touching the entire affair, and especially as complete as possible as to the receipt by you of the passports above mentioned and when as to day and hour they were by you posted to the parties at Kyoto. Also as to the post-mark above mentioned, showing when they left Tokio, especially with respect to the claim that they were posted April 5th. You will also ascertain by courteous and proper enquiry from H. B. M's. Consul, as a matter of comity and favor, what passports, if any, were delivered on the 2nd of April to British subjects intending to travel overland to Tokio. As i have not been

informed

informed of the names of Mr. Stuyvesant's alleged traveling companions, it will be necessary for you to ascertain the facts generally as to any passports delivered that day (April 2nd), unless, indeed, you should be able to find out who such traveling companions actually were, in which case the facts as to such known traveling companions will be sufficient.

I have also, in this connection, to enquire if any person connected with the Consulate informed the persons above named, Messrs Stuyvesant and Wendell, or either of them, that traveling passports are in all cases granted as a matter of course to citizens of the United States, at once, upon presentation of the application of the United States Minister. Also, what information, if any, was given to the parties above named on their arrival at the Consulate from Nagasaki as to what length of time it usually and reasonably required for traveling passports to be obtained from the Foreign Office at Tokio and transmitted to Kobe by mail and delivered at the Consulate.

I am, Sir,

Your obedient servant,

JO F. SWIFT.

Enclosure # 8 with Mr. Swift's No. 128.

(Copy)

No.455.

U. S. Consulate,

Osaka & Hiogo, Japan,

Hiogo, June 16, 1890.

Sir,

I have the honor to acknowledge the receipt of your despatch, dated the 11th inst., requesting me to report all the circumstances relating to the receipt at this Consulate of passports from the Legation, addressed to John R. Stuyvesant and Ten Eyck Wendell, and particularly to state the time when the said passports were forwarded to Kyoto.

In reply, I have to state that Messrs Stuyvesant and Wendell applied at this Consulate on April 2nd for passports which they informed me had been telegraphed for at Nagasaki. As the passports were not received on that or the following day, they applied to me for local passports to visit Kyoto, which were obtained the same day and forwarded to them at their hotel in Kobe. The passports from the Legation did not arrive here before the morning of the sixth, when they were immediately forwarded to Kyoto and should have been received the same day. To my surprise on the 7th I received a telegram from Mr. Stuyvesant stating the passports had not been received. I immediately made inquiry at the Post Office through the Interpreter and was informed that sometimes letters mailed for Kyoto went through to Tokio. I immediately informed Mr. Stuyvesant of the result of my investigation at the Post Office.

His Excellency John F. Swift,

E.E. & M.P. of the U.S. of America, Tokyo.

It is impossible for me to state at this time what the post mark was on the envelope covering the passports or what any of the employees of the Consulate stated to Mr. Stuyvesant or Wendell, about the time it requires to obtain them at the Legation. When inquiries of this kind have been made of me I have invariably said that it depended entirely upon the Japanese Foreign Office; that generally it took from five or six days after the application was forwarded from here, but that sometimes they were received in 3 or 4 days.

In accordance with your request I called upon Mr. Longford, H.B.M's. acting Consul, and in a friendly way inquired if he delivered any passports to British subjects on the 2nd April, which had been telegraphed for at Nagasaki on March 31. He unhesitatingly replied that he had not, that it would not have been possible for them to have reached Kobe before the 3rd or 4th of April. He stated that he did not keep a record of passports, not applied for at his office, but that it always takes 3 or 4 days to obtain a passport applied for by telegraph. He further remarked in conversation, that English people were constantly complaining that Americans obtained their passports quicker than they did.

All of which is respectfully submitted.

I have the honor to be

Your obedient servant,

E. J. SMITHERS,

Consul.

Enclosure No. 9 with Mr. Swift's No. 128

Translation copy of Mr. Wendell's passport*

TRAVELING PASSPORT FOR FOREIGNERS

No 591

NATIONALITY United States of America

NAME Lew Eyck Wendell

OCCUPATION

PLACE OF RESIDENCE Kobe

OBJECT OF JOURNEY Health

DESTINATION AND ROUTE Kobe overland to Tokyō

TIME OF JOURNEY One month from April 1st 1890

THE AFORESAID PERSON UNDER THE PROTECTION OF THE UNITED STATES MINISTER HAS MADE KNOWN HIS DESIRE TO VISIT THE PLACES SPECIFIED AND HAVING RECEIVED PERMISSION MUST BE ALLOWED TO PASS WITHOUT HINDERANCE BY THE WAY.

DATE OF ISSUE

April 1st 1890

THE FOREIGN OFFICE

Seal of the Foreign Office

No. 3618 Received April 12 1890.

To be Returned to the U S Legation within 5 Days after Expiration Expires May 1st 1890

* This passport is of the same tenor and date as Mr. Stuyvesant's. which the Foreign Office is unable to find

United States Legation.

The Department is requested to return to this Legation the original passport hereunto No. 3618, in order that it may be handed back to the Japanese Foreign Office in pursuance of the understanding upon which it was obtained.

Returned addressed July 19 V